

Item P9 - Attachment 1 - Report 20 July 2005

TITLE: [PD] Development Application DA05/0195 for a Residential Flat Building 6 Storeys Comprising of 12 Units and Two Levels of Underground Car Parking at Lot C DP 406494 No. 2 Boundary Lane and Lot 1 DP 350710, No. 4 Boundary Lane, Tweed Heads

ORIGIN:

Development Assessment

FILE NO: DA05/0195 Pt1

SUMMARY OF REPORT:

Council is in receipt of an application for a multi unit development at 2–4 Boundary Lane, Tweed Heads. The development comprises the demolition of the two existing dwellings and the construction of a six storey residential flat building comprising of 9 x 3 bedroom (plus study) units and 3 x 2 bedroom units with two basement car parking levels providing on site parking for 31 vehicles.

The land is zoned 2(b) Medium Density Residential under Tweed Local Environmental Plan 2000 and is located within the Flagstaff Hill precinct under Development Control Plan No.18 Tweed Heads. This location has the benefit of panoramic views and is subject to a 50m AHD height limit to allow for medium to high-density development that achieves good urban design outcomes.

Sean Gartner a qualified designer and registered architect has designed the building. The design has had regard to the design quality principles set out in SEPP 65 Design Quality of Residential Flat Development, Council's Development Control Plans and the Tweed Heads Master Plan.

Following exhibition of the proposal the application attracted fifteen individual objections. These objections focussed on the inappropriateness of the development being serviced by Boundary Lane, the bulk and scale of a six-storey building on the top of the hill, the extent of excavation for the two level car park, and the impact the proposal will have on local residents during and after construction. All of these issues have been considered in the assessment of this application as detailed in the following report.

Flagstaff Hill is a nominated high-density precinct, however, the area presently exhibits a mixture of residential flat buildings and single dwellings. Subsequently the proposed development is not going to be in character with these single dwellings. Notwithstanding, the proposed development is of a high urban design standard and has had regard for all of the planning policies in place to ensure the future desired character of the area is achieved.

Council has been served with a Deemed Refusal Class 1 Appeal in the Land & Environment Court NSW, in relation to this application. However, should this application be approved it is envisaged that this appeal will be withdrawn. Should the application be refused Council's solicitors will be instructed to defend the appeal commencing with the first call over on 8 August 2005.

RECOMMENDATION:

That: -

- 1. Council utilises its assumed concurrence in relation to the North Coast Regional Environmental Plan Clause 51 - Tall Buildings.**
- 2. Council generally supports the application and refers it to the Director Planning & Development to negotiate a contribution of \$2,000 per unit under a voluntary agreement for public infrastructure identified in the Tweed Heads Master Plan.**
- 3. The approval be issued by the Director Planning & Development under delegation in accordance with the following conditions: -**

GENERAL

- 1. The development shall be completed in accordance with the Statement of Environmental Effects and Plan Nos A01 - A07 prepared by Sean Gartner Architects and dated February 2005, except where varied by these conditions.**
[GEN0010]
- 2. No part of the proposed development shall exceed RL 49.8m AHD.**
[GEN0010]
- 3. The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia.**
[GEN0120]
- 4. The erection of a building in accordance with a development consent must not be commenced until:**
 - (a) a construction certificate for the building work has been issued by the consent authority, the council (if the council is not the consent authority) or an accredited certifier, and**
 - (b) the person having the benefit of the development consent has:**
 - (i) appointed a principal certifying authority for the building work, and**
 - (ii) notified the principal certifying authority that the person will carry out the building work as an owner-builder, if that is the case, and**
 - (b1) the principal certifying authority has, no later than 2 days before the building work commences:**
 - (i) notified the consent authority and the council (if the council is not the consent authority) of his or her appointment, and**
 - (ii) notified the person having the benefit of the development consent of any critical stage inspections and other**

inspections that are to be carried out in respect of the building work, and

(b2) the person having the benefit of the development consent, if not carrying out the work as an owner-building, has:

- (i) appointed a principal contractor for the building work who must be the holder of a contractor licence if any residential work is involved, and
- (ii) notified the principal certifying authority of any such appointment, and
- (iii) unless that person is the principal contractor, notified the principal contractor of any critical stage inspection and other inspections that are to be carried out in respect of the building work.

[GEN0150]

5. Any use of a crane or other equipment that may exceed a top RL of 49.5 metres AHD would intrude into the prescribed airspace of Gold Coast Airport, and therefore represent a "controlled activity" under the Airports (Protection of Airspace) Regulations. The proponent must obtain the approval of the Secretary, Department of Transport and Regional Services. An application for the Secretary's approval must be given to the airport lessee company (ie Gold Coast Airport Limited) at least 28 days before the intended commencement of the controlled activity.

[GENNS01]

6. Approval is given subject to the location of, protection of, and/or any necessary modifications to any existing public utilities situated within the subject property.

[GEN0030]

7. The enclosed portion of the building is to stand a minimum of 6 metres from the front boundary of the property.

[GEN0080]

8. The boundary fence to Boundary Lane is to be no greater than 1.6 metres in height and is to step down the site accordingly.

[GENNS02]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

9. **Section 94 Contributions**

- (i) Payment of the following contributions pursuant to Section 94 of the Act and the relevant Section 94 Plan.

Pursuant to Clause 146 of the Environmental Planning and Assessment Regulations, 2000, a Construction Certificate shall NOT be issued by a Certifying Authority unless all Section 94 Contributions have been paid and the Certifying Authority has sighted Council's "Contribution Sheet" signed by an authorised officer of Council.

These charges will remain fixed for a period of 12 months from the date of this consent and thereafter in accordance with the rates applicable in the current version/edition of the relevant Section 94 Plan current at the time of the payment.

A copy of the Section 94 contribution plans may be inspected at the Civic and Cultural Centres, Tumbulgum Road, Murwillumbah and Brett Street, Tweed Heads.

a.	Tweed Road Contribution Plan: S94 Plan No. 4 (Version 4.0) Sector1_4	\$6,697
b.	Open Space (Structured): S94 Plan No. 5	\$4,560
c.	Open Space (Casual): S94 Plan No. 5	\$974
d.	Shirewide Library Facilities: S94 Plan No. 11	\$4,024
e.	Eviron Cemetery/Crematorium Facilities: S94 Plan No. 13	\$818
f.	Emergency Facilities (Surf Lifesaving) (REMSHIRE) S94 Plan No. 16	\$1,262
g.	Extensions to Council Administration Offices & Technical Support Facilities S94 Plan No. 18	\$2,449.25
h.	Cycleways S94 Plan No. 22	\$940
i.	Regional Open Space (Structured) S94 Plan No. 26	\$6,875
j.	Regional Open Space (Casual) S94 Plan No. 26	\$1,286

[PCC0050/PSC0005]

10. A certificate of compliance (CC) under Sections 305, 306 and 307 of the Water Management Act 2000 is to be obtained from Council to verify that the necessary requirements for the supply of water and sewerage to the development have been made with the Tweed Shire Council.

Pursuant to Clause 146 of the Environmental Planning and Assessment Regulations, 2000, a Construction Certificate shall NOT

be issued by a Certifying Authority unless all Section 64 Contributions have been paid and the Certifying Authority has sighted Council's "Contribution Sheet" and a "Certificate of Compliance" signed by an authorised officer of Council.

Annexed hereto is an information sheet indicating the procedure to follow to obtain a Certificate of Compliance:

Water DSP4: 5.5 ET @ \$4230	\$23,265
Sewer Banora: 9.25 ET @ \$2634	\$24,365

These charges to remain fixed for a period of twelve (12) months from the date of this consent and thereafter in accordance with the rates applicable in Council's adopted Fees and Charges current at the time of payment.

Note: The Environmental Planning and Assessment Act, 1979 (as amended) makes no provision for works under the Water Management Act 2000 to be certified by an Accredited Certifier.

[PCC0070/PSC0004]

11. Waste material (soil, concrete, timber, masonry, steel and the like) generated by the development shall be disposed of in accordance with a Waste Management Plan which shall be submitted to and approved by the Director of Environment and Community Services PRIOR to the issue of a construction certificate.

The Plan shall specify how the waste is to be treated and/or where the waste is to be disposed of.

[PCC0130]

12. Permanent Stormwater Quality Treatment

- (a) Permanent stormwater quality treatment shall comply with "*Tweed Urban Stormwater Quality Management Plan*" (adopted by Council 19 April 2000) section 5.5.3 "Stormwater Objectives During the Post Construction or Occupational Phase of Development". New development is required to comply with table 5.4 of the plan and demonstrate compliance by modelling in accordance with section 5.5.4. Section 5.5.5 of the plan further advises that treatment that is in accordance with the "deemed to comply" provisions of *Appendix E - Tweed Shire Council, Aus-Spec D7 - Stormwater Quality* is deemed to comply with the objectives in 5.5.3.
- (b) Water sensitive design practices shall be adopted. Where it is practical, water quality features are to be designed into the land development site rather than rely on special end of pipe devices to strip pollutants and nutrients from stormwater prior to discharge. Typical water quality features that can be designed into the site development include use of porous pavements, directing runoff over filter strips or grass swales in landscaped areas, utilising landscaping as an integral part of stormwater

quality management, maximising use of infiltration and stormwater reuse (eg. Rainwater tanks). These features can be complemented by site management practices which minimise creation of stormwater pollutants and nutrients and provide for appropriate operation, cleaning and maintenance of water quality control devices.

- (c) The Construction Certificate Application must include a detailed stormwater management plan (SWMP) for the occupational or use stage of the development, prepared in accordance with Section D7.07 of *Tweed Shire Council Aus-Spec D7 - Stormwater Quality*.
- (d) Specific requirements:
 - (i) Runoff from driveway and basement car park areas must be treated to remove oil and sediment pollutants prior to discharge to the public realm. Permanent treatment devices must be sized in accordance with Section D7.12 of Council's Development Design Specification D7 - Stormwater Quality. Full engineering details of all treatment devices, including maintenance schedules, must be submitted with a s68 Stormwater Application for approval prior to the issue of a Construction Certificate.
 - (ii) Dedicated car wash bays must be bunded to prevent contamination of basement stormwater. All collected carwash runoff must be treated to remove oil and sediment pollutants prior to discharge to sewer, requiring a Tweed Shire Council Trade Waste Application.

[PCC0230]

13. Erosion and Sediment Control During the Construction Phase of Development

- (a) Construction phase stormwater quality treatment (erosion and sediment control) shall be designed and constructed in accordance with detailed engineering plans to be submitted and approved with the Construction Certificate. Erosion and sediment control shall be in accordance with *the "Tweed Urban Stormwater Quality Management Plan"* (adopted by Council 19 April 2000) section 5.5.2 "Stormwater Objectives During the Construction Phase of New Development". This section requires all new development to comply with Appendix E of the Plan "*Tweed Shire Council Aus-Spec D7 - Stormwater Quality*" and its Annexure A - "Code of Practice for Soil and Water Management on Construction Works". Erosion and sediment controls shall remain in place until final approval is given and the maintenance bond (if required) has been released.
- (b) The Construction Certificate Application must include a detailed erosion and sediment control plan (ESCP) for the construction

phase of development, prepared in accordance with Section D7.07 of *Tweed Shire Council Aus-Spec D7 - Stormwater Quality*.

[PCC0320]

- 14. The legal point of discharge for the subject development is via discharge into the public drainage system in Boundary Lane.**
[PCCNS01]
- 15. Construction Certificate drawings shall make provisions for the regrading of the subject site in accordance with Council's Development Control Plan 47 "Cut and Fill on residential Land " or to the satisfaction of the Director Engineering and Operations Division.**
[PCCNS01]
- 16. All retaining walls in excess of 1.2m are to be designed by a suitably qualified geotechnical / structural engineer in accordance with AS4678 - 2002 - Earth Retaining Structures. A report that details compliance with the design provisions of this standard is to accompany the Construction Certificate drawings.**
[PCCNS01]
- 17. Prior to the issuing of a Construction Certificate, a full geotechnical assessment of the site is to be carried out and a report submitted to Council for approval. The report must include recommendations relating to site stability, proposed on-site excavation works including temporary and permanent retention methods proposed for the protection of adjacent structures, foundation design parameters, construction theories, as well as any other geotechnical matters of relevance relating to the proposed development. The report should detail any precautions considered necessary to protect such properties from damage in accordance with Tweed Shire Council's Building Excavation Dewatering Policy.**
- Ground anchors to retain sacrificial sheet piling (as required) will not be allowed within Council property without prior approval for installation by the Director Engineering and Operations Division and removal on completion or substantial financial compensation. Council will only allow ground anchors with neighbouring private property if consent by the owners of the property to be burdened is obtained prior to installation.**
[PCCNS01]
- 18. Prior to Issue of Construction Certificate the applicant shall submit to Council documentation demonstrating General Public Liability Insurance to the value of \$5,000,000 which includes loss of support to neighbouring properties which is attributed to excavation vibration associated with the project in accordance with Tweed Shire Council's Building Excavation Dewatering Policy.**
[PCCNS04]
- 19. An on site detention (OSD) system shall be installed in general accordance with stormwater management details provided by Northern Beaches Consulting Engineers (dated 21 February 2005, ref**

041219), to limit peak stormwater discharge from the site to the public realm to 200L/s/ha in events of intensity up to the ARI 100 year design storm. These works and the connection to Council's drainage system shall be constructed in accordance with detailed design calculations, plans and specifications to be submitted with the construction certificate application and approved by the Director Engineering & Operations. Invert levels of all devices shall be reviewed to ensure efficient conveyance of stormwater to the Boundary Lane kerb and gutter.

[PCCNS01]

20. Notwithstanding the issue of this development consent, separate consent from Council under Section 138 of the Roads Act 1993, must be obtained prior to any works taking place within the public road including the construction of new driveway access, footpath or kerb and gutter construction. Applications for consent under Section 138 must be submitted on Council's standard application form and be accompanied by the required attachments and prescribed fee.

[PCCNS01]

21. Appropriate arrangements to the satisfaction of Council's DECS shall be provided for the storage and removal of garbage and other waste products.

[PCCNS02]

22. Prior to the installation of any air conditioning systems, details of the units and locations proposed shall be supplied to Council's Environment and Health Unit for review and approval.

[PCCNS03]

23. A detailed plan of landscaping is to be submitted and approved by Council's Director, Planning and Development prior to the issue of a Construction Certificate. All landscaping work is to be completed in accordance with the approved plans prior to any use or occupation of the building.

[PCC0010]

24. A construction certificate application for works that involve any of the following:-

- connection of a private stormwater drain to a public stormwater drain
- installation of stormwater quality control devices
- erosion and sediment control works

will not be approved until prior separate approval to do so has been granted by Council under section 68 of the Local Government Act 1993.

Applications for these works must be submitted on Council's standard s68 stormwater drainage application form accompanied by the required attachments and the prescribed fee.

[PCC0240]

25. A traffic control plan that complies with the provisions of the RTA document "Traffic Control at Work Sites" Version 2 shall be prepared by a person who is qualified, authorised and has passed an RTA approved training course, and submitted to Council, prior to issue of the Construction Certificate. All works are to comply with the Occupational Health and Safety Act and the RTA document and the approval particularly in respect to works on public roads. Safe public access shall be provided at all times.

[PCC0040]

PRIOR TO COMMENCEMENT OF WORK

26. Please note that while the proposal, subject to the conditions of approval, may comply with the provisions of the Building Code of Australia for persons with disabilities your attention is drawn to the Disability Discrimination Act which may contain requirements in excess of those under the Building Code of Australia. It is therefore recommended that these provisions be investigated prior to start of works to determine the necessity for them to be incorporated within the design.

[PCW0010]

27. A temporary builder's toilet is to be provided prior to commencement of work at the rate of one (1) closet for every twenty (20) persons or part of twenty (20) persons employed at the site. Each toilet provided must be:-

- (a) a standard flushing toilet connected to a public sewer, or
- (b) if that is not practicable, an accredited sewage management facility approved by the council, or
- (c) if that is not practicable, any other sewage management facility approved by the council.

[PCW0060]

28. Where prescribed by the provisions of the Environmental Planning and Assessment Amendment (Quality of Construction) Act 2003, a sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:

- (a) showing the name, address and telephone number of the principal certifying authority for the work, and
- (b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
- (c) stating that unauthorised entry to the site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

[PCW0070]

29. It is a condition of this approval that, if an excavation extends below the level of the base of the footings of a building on an adjoining

allotment of land, the person causing the excavation to be made must comply with the following:

- i. The person must, at the person's own expense:
 - a. preserve and protect the building from damage; and
 - b. if necessary, underpin and support the building in an approved manner.
- ii. The person must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars to the owner of the proposed work.

[PCW0080]

30. Prior to work commencing, a "Notice of Commencement of Building or Subdivision Work and Appointment of Principal Certifying Authority" shall be submitted to Council at least 2 days prior to work commencing.

[PCW0090]

31. An application to connect to Council's sewer or carry out plumbing and drainage works, together with any prescribed fees including inspection fees, is to be submitted to and approved by Council prior to the commencement of any building works on the site.

[PCW0210]

32. Prior to commencement of building works provide hydraulic drawings on the proposed sewer drainage systems including pipe sizes, details of materials and discharge temperatures.

[PCW0230]

33. Prior to commencement of work on the site all erosion and sedimentation control measures are to be installed and operational to the satisfaction of the Principal Certifying Authority. In addition to these measures an appropriate sign is to be clearly displayed on the most prominent position of the sediment fence or erosion control device which promotes awareness of the importance of the erosion and sediment controls provided.

Please note that this sign is to remain in position for the duration of the project.

[PCW0280]

34. Prior to commencement of any demolition works, drainage is to be disconnected from Council's Sewerage reticulation at the building's connection point. This work is to be carried out by Council staff at developers cost as per Council's current Fees and Charges.

[PCW0300]

35. Prior to the commencement of any demolition works on the site a development application for demolition is to be submitted to and approved of by Council.

[PCWNS01]

36. Prior to commencement of works all required sedimentation and siltation control measures are to be installed and operational to the satisfaction of the Principal Certifying Authority.

Erosion and sediment control shall be in accordance with *the "Tweed Urban Stormwater Quality Management Plan"* (adopted by Council 19 April 2000) section 5.5.2 "Stormwater Objectives During the Construction Phase of New Development". This section requires all new development to comply with Appendix E of the Plan "*Tweed Shire Council Aus-Spec D7 - Stormwater Quality*" and its Annexure A - "Code of Practice for Soil and Water Management on Construction Works". Erosion and sediment controls shall remain in place until final approval is given and the maintenance bond has been released.

[PCW0190]

DURING CONSTRUCTION

37. All building work (other than work relating to the erection of a temporary building) must be carried out in accordance with the requirements of the Building Code of Australia (as in force on the date the application for the relevant construction certificate or complying development certificate was made).
- [DUR0010]
38. Provision shall be made for the collection of builder's solid waste in accordance with the following requirements:
- a. A temporary builder's waste chute is to be erected to vertically convey builder's debris to a bulk container.
 - b. The chute shall be located in a position approved by the Principal Certifying Authority.
 - c. A canopy shall be provided to the chute outlet and container to reduce the spillage of materials and nuisance caused by dust.
- [DUR0070]
39. The builder must provide an adequate trade waste service to ensure that all waste material is contained, and removed from the site for the period of construction.
- [DUR0080]
40. A garbage storage area shall be provided in accordance with Council's "Code for Storage and Disposal of Garbage and Other Solid Waste".
- [DUR0090]
41. All demolition works are to observe the guidelines set down under the Environment Protection Authority publication "A Renovators Guide to the Dangers of Lead" and the WorkCover guidelines on working with and handling of asbestos.
- [DUR0100]

42. **Building materials used in the construction of the building are not to be deposited or stored on Council's footpath or road reserve, unless prior approval is obtained from Council.**
[DUR0130]
43. **All demolition work is to be carried out in accordance with the provisions of Australian Standard AS 2601 "The Demolition of Structures" and to the relevant requirements of the WorkCover Authority.**
[DUR0160]
44. **The principal certifying authority is to be given a minimum of 48 hours notice prior to any critical stage inspection or any other inspection nominated by the principal certifying authority via the notice under Section 81A of the Environmental Planning and Assessment Act 1979.**
[DUR0170]
45. **It is the responsibility of the applicant to restrict public access to the building site, building works or materials or equipment on the site when building work is not in progress or the site is otherwise unoccupied.**
[DUR0200]
46. a. **All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards.**
b. **All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.**
[DUR0210]
47. **If the work involved in the erection or demolition of a building:**
- a. **is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient; or**
 - b. **building involves the enclosure of a public place,**
- a hoarding or fence must be erected between the work site and the public place.**
- If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place.**
- The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.**
- Any such hoarding, fence or awning is to be removed when the work has been completed.**
[DUR0220]
48. **Provision to be made for the designation of a durable and pervious car wash-down area/s. The area/s must be identified for that specific**

purpose and be supplied with an adequate water supply for use within the area/s. Any surface run-off from the area must not discharge directly to the stormwater system.

[DUR0240]

- 49. No filling to is be placed hydraulically within twenty metres (20m) of any boundary that abuts private land that is separately owned. Fill adjacent to these boundaries is to be placed mechanically.**

No filling of any description is to be deposited, or remain deposited, within adjacent properties.

[DUR0560]

- 50. Suitable covering and protection is to be provided to ensure that no material is removed from the site by wind, causing nuisance to neighbouring properties.**

[DUR0850]

- 51. All battered areas are to be topsoiled and grassed, or other suitable protection provided as soon as filling is placed adjacent to neighbouring properties.**

[DUR0860]

- 52. All work associated with this approval is to be carried out so as not to cause a nuisance to residents in the locality from noise, water or air pollution.**

[DUR0870]

- 53. All necessary precautions shall be taken to minimise impact from dust during filling operations from the site and also from construction vehicles.**

[DUR0880]

- 54. Construction site work including the entering and leaving of vehicles is to be restricted to between 7.00 am and 7.00 pm Monday to Saturday and no work on Sundays or public holidays.**

[DUR0900]

- 55. All reasonable steps shall be taken to muffle and acoustically baffle all plant and equipment. In the event of complaints from the neighbours, which Council deem to be reasonable, the noise from the construction site is not to exceed the following:**

A. Short Term Period - 4 weeks.

L10 noise level measured over a period of not less than 15 minutes when the construction site is in operation, must not exceed the background level by more than 20dB(A) at the boundary of the nearest likely affected residence.

B. Long term period - the duration.

L10 noise level measured over a period of not less than 15 minutes when the construction site is in operation, must not exceed the background level by more than 15dB(A) at the boundary of the nearest affected residence.

[DUR0910]

56. The use of vibratory compaction equipment (other than hand held devices) within 100m of any dwelling house is strictly prohibited. [DUR0920]
57. Prior to and during construction provide a "shake down" area along the haul route located immediately before the intersection with the road reserve. The "shake down" area is to be 10 metres long, minimum 3.0 metres wide, constructed of minimum 50mm diameter crushed rock; or other such device approved by the Director, Engineering & Operations. [DUR0930]
58. The burning of builders waste on site by open fire is prohibited. [DUR0940]
59. Any proposed cooling tower installation must also include details on the proposed means of back flow prevention to the water supply prior to installation. [DUR0970]
60. Council is to be given 24 hours notice for any of the following inspections prior to the next stage of construction:
- a. internal drainage, prior to slab preparation;
 - b. water plumbing rough in, and/or stackwork prior to the erection of brick work or any wall sheeting;
 - c. external drainage prior to backfilling.
 - d. completion of work and prior to occupation of the building. [DUR1020]
61. A. A plumbing permit is to be obtained from Council prior to commencement of any plumbing and drainage work.
B. The whole of the plumbing and drainage work is to be completed in accordance with the requirements of the NSW Code of Practice for Plumbing and Drainage. [DUR1030]
62. An isolation cock is to be provided to the water services for each unit in a readily accessible and identifiable position. [DUR1040]
63. Where two (2) or more premises are connected by means of a single house service pipe, the owner of each premises must (*unless all the premises are occupied by a single household or firm as a residence or place of business*) ensure that a separate water meter, of a class and size approved by Council, is installed on each of those premises. [DUR1070]
64. Dual flush water closet suites are to be installed in accordance with Local Government Water and Sewerage and Drainage Regulations 1993. [DUR1090]
65. Back flow prevention devices shall be installed wherever cross connection occurs or is likely to occur. The type of device shall be

determined in accordance with AS 3500.1 and shall be maintained in working order and inspected for operational function at intervals not exceeding 12 months in accordance with Section 4.7.2 of this Standard.

[DUR1110]

66. **Overflow relief gully is to be located clear of the building and at a level not less than 150mm below the lowest fixture within the building and 75mm above finished ground level.**

[DUR1130]

67. **All new hot water installations shall deliver hot water at the outlet of sanitary fixtures used primarily for personal hygiene purposes at a temperature not exceeding:-**

- * **43.5⁰C for childhood centres, primary and secondary schools and nursing homes or similar facilities for aged, sick or disabled persons; and**
- * **50⁰C in all other classes of buildings.**

A certificate certifying compliance with the above is to be submitted by the licensed plumber on completion of works.

[DUR1160]

68. **Any damage caused to public infrastructure (roads, footpaths, water and sewer mains, power and telephone services etc) during construction of the development shall be repaired to the satisfaction of the Director, Engineering & Operations prior to the issue of a Subdivision Certificate and/or prior to any use or occupation of the buildings.**

[DUR1210]

69. **All proposed works are to be carried out in accordance with the conditions of development consent, approved construction certificate, drawings and specifications.**

[DURNS01]

70. **A concrete ribbon footpath 100 millimetres thick for the full width of the nature strip between the back of kerb and the property boundary along the frontage of the site to Boundary Lane is to be constructed on a compacted base. The compacted base is to achieve 95% of maximum dry density determined in accordance with AS1289 5.4.1 for a minimum 100mm depth. A full depth construction joint is to be provided at 6.0 metre intervals and 20 millimetre deep groove joints provided every 1.5 metres. The footpath is to have a 2.5% crossfall. This may result in work to be undertaken on the footpath at adjoining properties which must not exceed 1:14 and must be reinstated with turf. No steps or ramps will be permitted within the nature strip and the associated entrances to the proposed development must be designed accordingly. The concrete footpath gradient shall be parallel to the top of kerb for the full frontage of the site and be maintained unvaried across the proposed driveway and pedestrian entrances. An inspection of the formwork is to be arranged with**

Council's Engineering & Operations Division prior to concrete being placed.

[DURNS01]

- 71. The provision of adequate vehicular access in accordance with Council's "Vehicular Access to Property Construction Specification" pamphlet, including the provision of an invert crossing at the kerb and gutter where required and paving of the driveway across the footpath to the front alignment to the satisfaction of the Director, Engineering & Operations. Twenty four (24) hours notice is to be given to Council's Engineering & Operations Division before placement of concrete to enable formwork to be inspected. Failure to do so may result in rejection of the vehicular access and its reconstruction. Paving bricks are not acceptable unless laid on a 100mm thick concrete base.**

[DURNS01]

- 72. Adequate site distances satisfying the provisions of Council's "Driveway Access To Property" pamphlet must be provided at the site's vehicular access.**

[DURNS01]

- 73. All imported fill material shall be from an approved source. Prior to commencement of filling operations, details of the source of fill shall be submitted to the satisfaction of the DECS. Documentary evidence must be provided that the fill material is free of any contaminants.**

[DURNS02]

- 74. Appropriate measures are to be put in place during the construction period to prevent the transport of sediment from the site. Should any material be transported onto the road or any spills occur it is to be cleaned up within one hour of occurrence.**

[DURNS03]

- 75. All works (including support structures for excavation such as sheet piling) are to occur within the confines of the subject property boundaries.**

[DURNS04]

- 76. The building is to be constructed of non reflective materials with a complementary colour scheme.**

[DURNS05]

- 77. No soil, sand, gravel, clay or other material shall be disposed of off the site.**

[DUR0030]

- 78. Where the construction work is on or adjacent to public roads, parks or drainage reserves the development shall provide and maintain all warning signs, lights, barriers and fences in accordance with AS 1742.3-2202 (Manual of Uniform Traffic Control Devices). The contractor or property owner shall be adequately insured against Public Risk Liability and shall be responsible for any claims arising from these works.**

[DUR0040]

79. The provision of 31 off street car parking spaces, five to be nominated as visitor car parking and one to be a nominated car wash bay. The layout and construction standards to be in accordance with Development Control Plan No. 2 - Parking Controls.

[DUR0050]

80. All retaining walls in excess of 1.2 metres in height must be certified by a Qualified Structural Engineer verifying the structural integrity of the retaining wall after construction.

[DUR0060]

81. Regular inspections shall be carried out by the Supervising Engineer on site to ensure that adequate erosion control measures are in place and in good condition both during and after construction.

Additional inspections are also required by the Supervising Engineer after each storm event to assess the adequacy of the erosion control measures, make good any erosion control devices and clean up any sediment that has left the site or is deposited on public land or in waterways.

This inspection program is to be maintained until the maintenance bond is released or until Council is satisfied that the site is fully rehabilitated.

[DUR0730]

82. Landscaping of the site shall be carried out in accordance with the submitted landscaping plans. The landscaping to be completed prior to occupation of the building, to the satisfaction of the Director, Planning and Development.

[DUR1230]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

83. In the event that Council is not utilised as the inspection/certifying authority, prior to occupation of the building a Compliance Certificate in the prescribed form is to be submitted to Council from the nominated principal certifying authority, together with the prescribed fee, to certify that all work has been completed in accordance with the approved plans and specifications and conditions of Consent.

[POC0020]

84. A person must not commence occupation or use of the whole or any part of a new building (within the meaning of Section 109H(4)) unless an occupation certificate has been issued in relation to the building or part (maximum 25 penalty units).

[POC0030]

85. The building is not to be occupied or a final occupation certificate issued until a fire safety certificate has been issued for the building to the effect that each required essential fire safety measure has been designed and installed in accordance with the relevant standards.

[POC0050]

86. Prior to the occupation or use of any building and prior to the issue of any occupation certificate, including an interim occupation certificate, a final inspection report is to be obtained from Council in relation to the plumbing and drainage works.

[POC0170]

87. Prior to the issue of an occupation certificate, a "satisfactory inspection report" issued by Council must be produced for s68h2 permanent stormwater quality control devices. This inspection report must be obtained from Council prior to backfilling of any of the s68h2 approved devices.

[POCNS01]

USE

88. Owners of buildings served by plant involving the operation of "cooling towers", "evaporative condensers" or "tepid water systems" must submit to Council, half yearly, a report detailing the maintenance, cleansing and chemical treatment of such plant every three (3) months in accordance with Part 6 of the NSW Public Health Act.

[USE0180]

89. All mechanical ventilation, pool pumps, other plant and associated equipment shall be acoustically treated where required to the satisfaction of Council's DECS so as to avoid the creation of intrusive or unreasonable noise to any occupant of a neighbouring or adjacent residential premises.

[USENS01]

90. All externally mounted artificial lighting is to be shielded to the satisfaction of Council's DECS where necessary or required so as to prevent the spill of light creating a nuisance to adjoining residential premises.

[USENS02]

91. The premises shall be suitably identified by Unit No. (where appropriate) and Street Number displayed in a prominent position on the facade of the building facing the primary street frontage, and is to be of sufficient size to be clearly identifiable from the street.

[USE0040]

92. All trade materials, product and plant to be kept within confines of the building at all times.

[USE0120]

93. A Strata Certificate shall not be issued for a Strata Plan or a Strata Plan of Subdivision unless the provision of the Strata Schemes (Freehold Development) Act 1973 and/or the Strata Schemes (Leasehold Development) Act 1986 have been complied with.

[USE0140]

94. The swimming pool is not to be used for commercial purposes without prior Development Consent.

[USE0260]

REPORT:

Applicant: Sean Gartner Architects
Owner: Point-D Pty Ltd and Kosalin Pty Ltd
Location: Lot C DP 406494 No. 2 Boundary Lane and Lot 1 DP 350710 No. 4 Boundary Lane, Tweed Heads
Zoning: 2(b) Medium Density Residential
Cost: \$3,400,000.00

BACKGROUND:

The surrounding sites exhibit a mixture of residential flat buildings and single dwellings. The diverse mixture of dwelling types comes from the relatively recent rezoning of the Flagstaff Hill precinct to high density residential, a style of housing type, which is slowly replacing the single storey cottages that were prevalent in the area.

The subject site is presently occupied by two dwelling houses known as 2 and 4 Boundary Lane. The land has a total area of 904.43m² with a frontage of 35.98 metres to Boundary Lane and an average depth of 25.15m. The site has a constant slope from the rear to the lane of 3m in addition to a cross fall from east to west of 2m.

This is the second application Council has recently received over No. 2 Boundary Lane. The first (DA03/1259) sought approval for a multi-dwelling housing development containing three (3) units in a five-storey configuration over 398.6m². The application was refused and considered an overdevelopment of the site due the proposed setback variations, non-compliance with on site parking requirements and non-compliances with DCP 18.

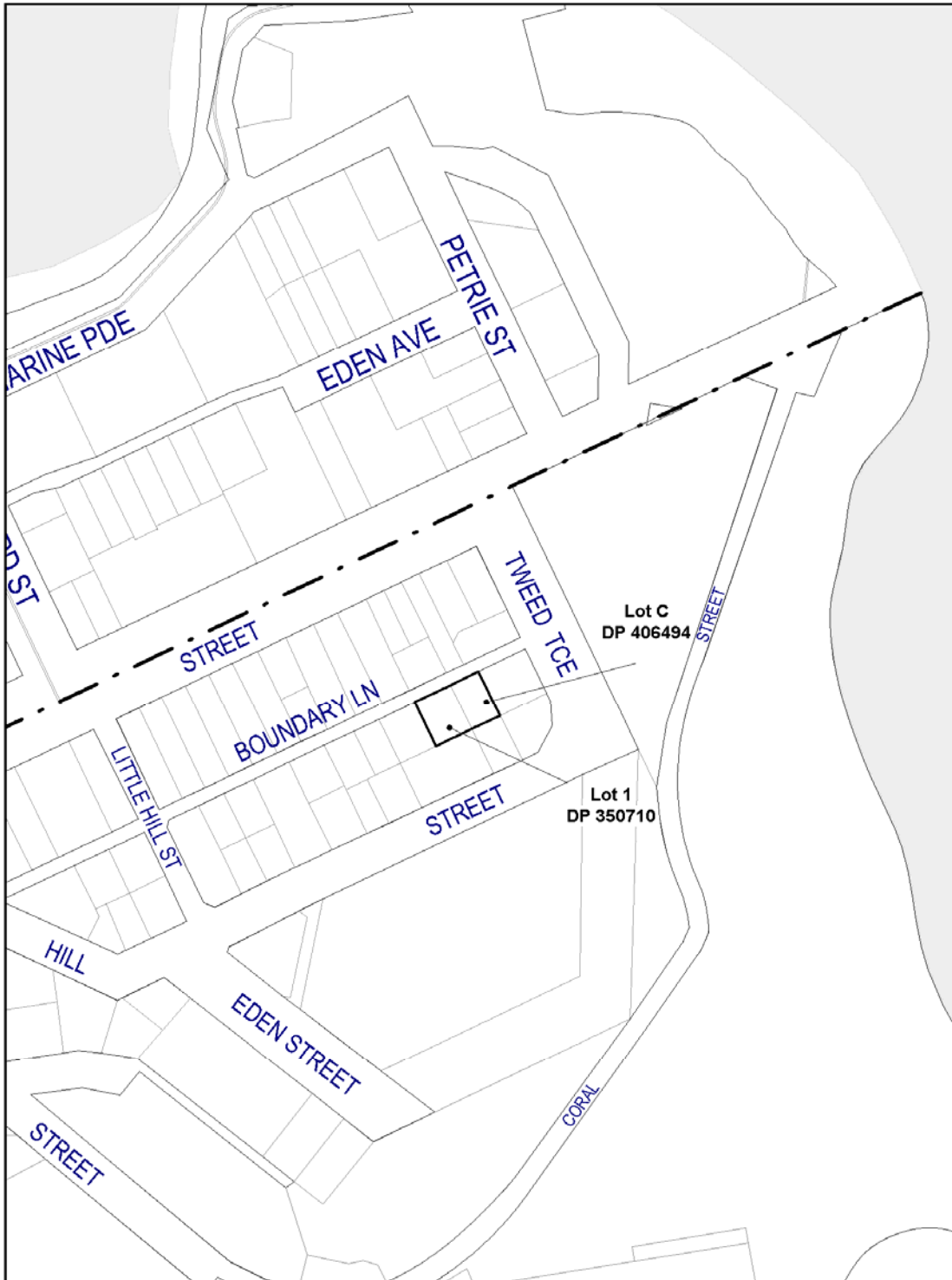
The application currently before Council seeks consent for the erection of a multi-dwelling housing development comprising 12 units within a six-storey building, over two allotments. Nine (9) of these units have three bedrooms (three with an additional study) with the remaining three (3) units containing only two bedrooms.

Vehicular access to the site is via a driveway off Boundary Lane (a one way four metre wide pavement that can not support any on street car parking). This driveway leads to a two-tier basement car park, which accommodates thirty-one spaces in total.

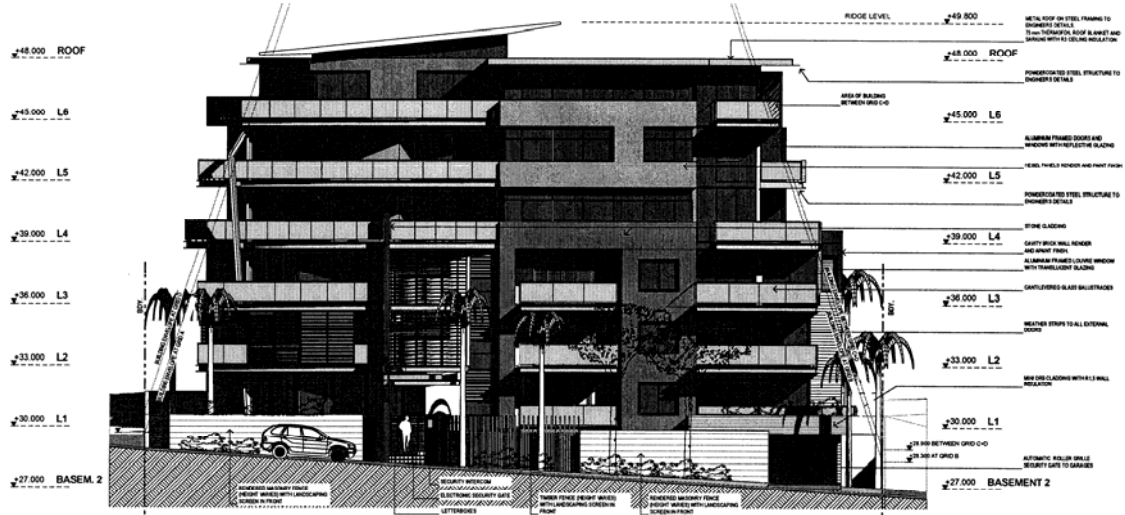
The proposed development incorporates extensive balconies for each unit (some with private upper level pools) in addition to ground level common open space areas and a pool.

In comparison to DA03/1259 this DA has had regard to the design quality principles set out in SEPP 65 Design Quality of Residential Flat Development, Council's Development Control Plans and the Tweed Heads Master Plan. Additionally, the proposed unit development is an attractive contemporary design with strong articulation through layering, depth and texture to create a vibrant addition to the streetscape.

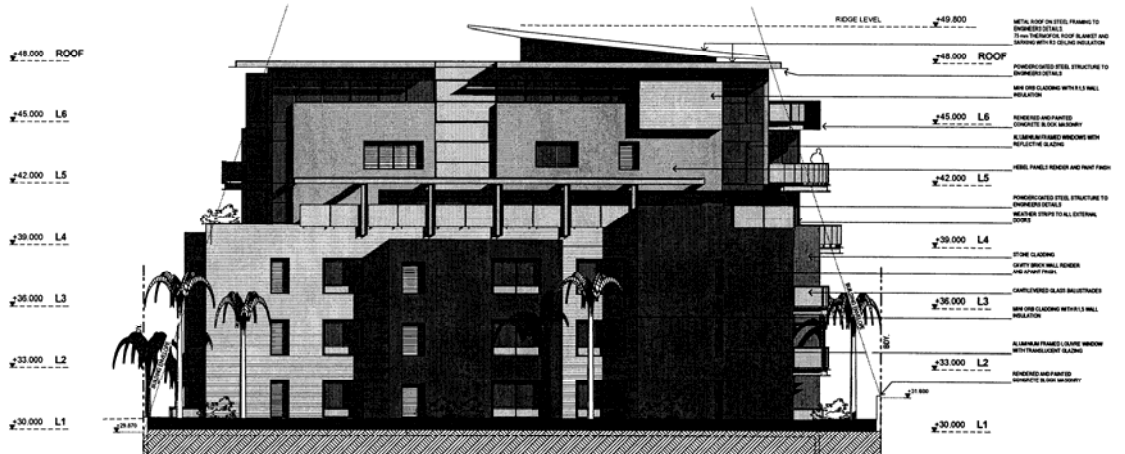
SITE DIAGRAM:



<p>© TWEED SHIRE COUNCIL 2005 Although all care has been taken with the production of this map, the TWEED SHIRE COUNCIL, its Employees, Officers and Consultants can not be Responsible for any Errors, Omissions or Inaccuracies in respect to the information supplied in this map. DO NOT SCALE COPY ONLY - NOT CERTIFIED P.O. Box 816 Murwillumbah, NSW, 2484 Tel: (02) 6670 2409 Fax: (02) 6670 2488</p>	<p><i>Tweed Shire Council</i></p> <p>Lot C DP 406494 and Lot 1 DP 350710 Boundary Lane, Tweed Heads</p>		<p>STRATEGIC PLANNING UNIT</p> <p>Figure 1</p> <p>Sheet: 1 of 1</p>
<p>File: N:\MapInfo 7...A4P Site Plan.Wor Author: C.Davis Date: 12/July/2005 Scale: 1:7,500</p>			



NORTH-WEST ELEVATION



SOUTH-EAST ELEVATION

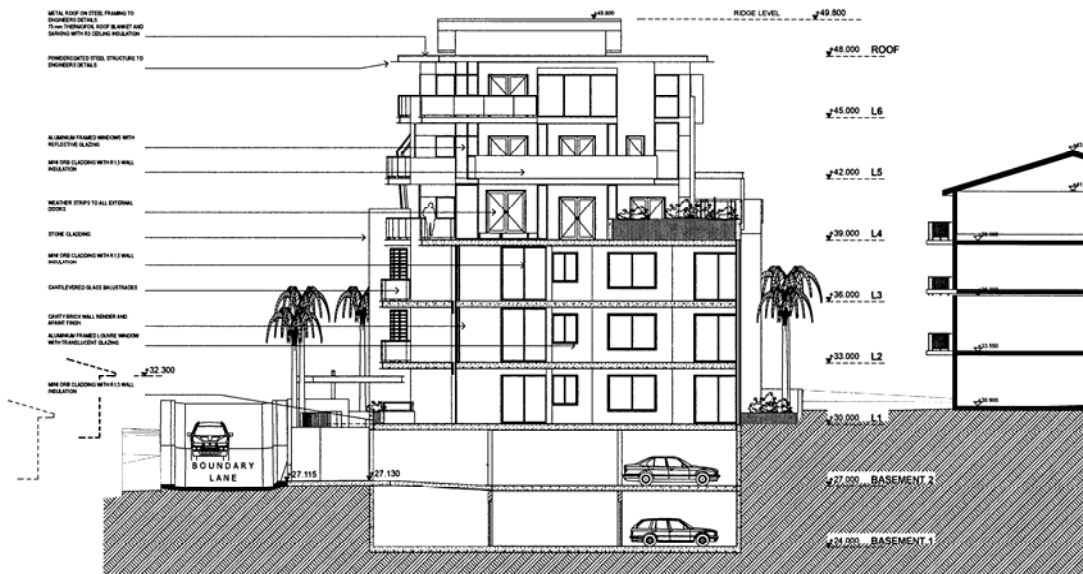


SOUTH-WEST ELEVATION

		SEAN GARTNER ARCHITECTS		NEW APARTMENTS 2-4 BOUNDARY LANE, TWEED HEADS		Client: J&S Project Number: 0430 Date: FEB 2013	
22.00.00	A	DEVELOPMENT APPLICATION	DATE: 2013	SCALE: 1:1000	FIG. NO: A-06	SHEET: 11 OF 12	
				ELEVATIONS - NW, SW & SE			

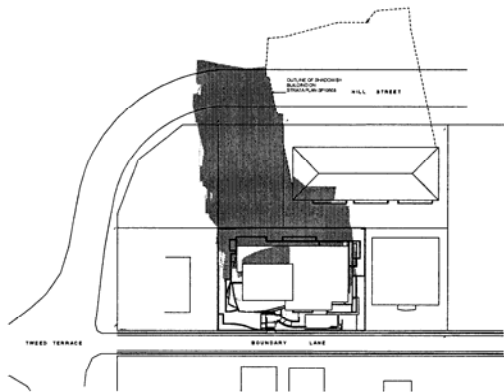


NORTH-EAST ELEVATION

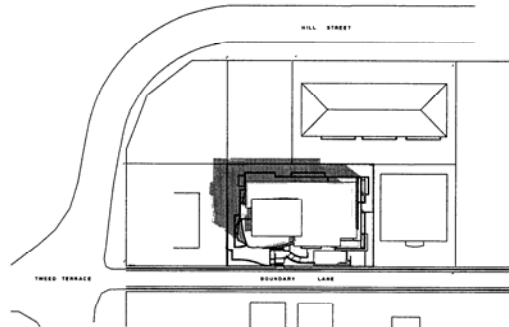


SECTION A-A

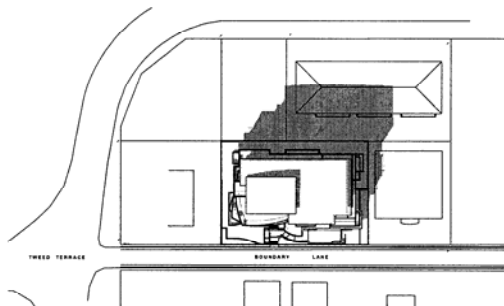
		SEAN GARTNER ARCHITECTS		NEW APARTMENTS 2-4 BOUNDARY LANE, TWEED HEADS		Sheet Number: 0630	Scale: 1:100 @ A1
				ELEVATION NE - SECTION A-A		Sheet No: A-07	Rev: A



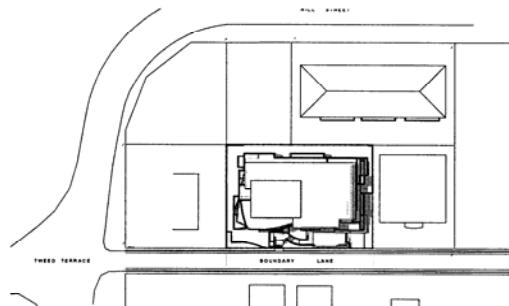
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AZIMUTH 270.3° - ALTITUDE 29.2°



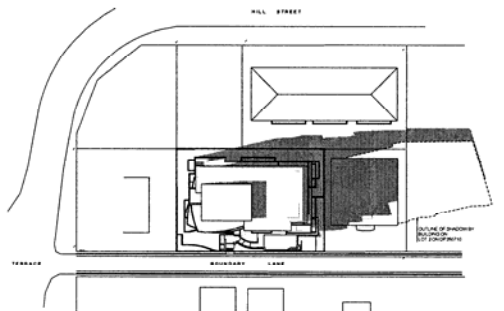
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AZIMUTH 244.3° - ALTITUDE 28.3°



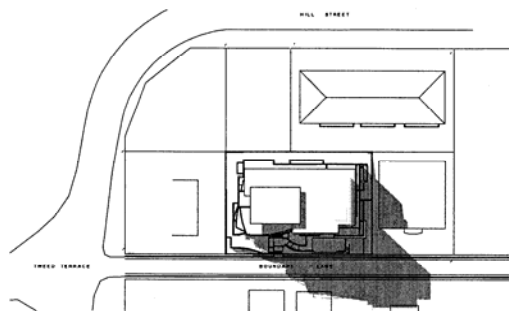
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AZIMUTH TRUE NORTH - ALTITUDE 37.3°



SHADOW DIAGRAM 12:00PM
AZIMUTH TRUE NORTH - ALTITUDE 38.3°



SHADOW DIAGRAM 09:00AM
AZIMUTH 142.7° - ALTITUDE 14.7°



SHADOW DIAGRAM 09:00AM
AZIMUTH 127.7° - ALTITUDE 28.8°

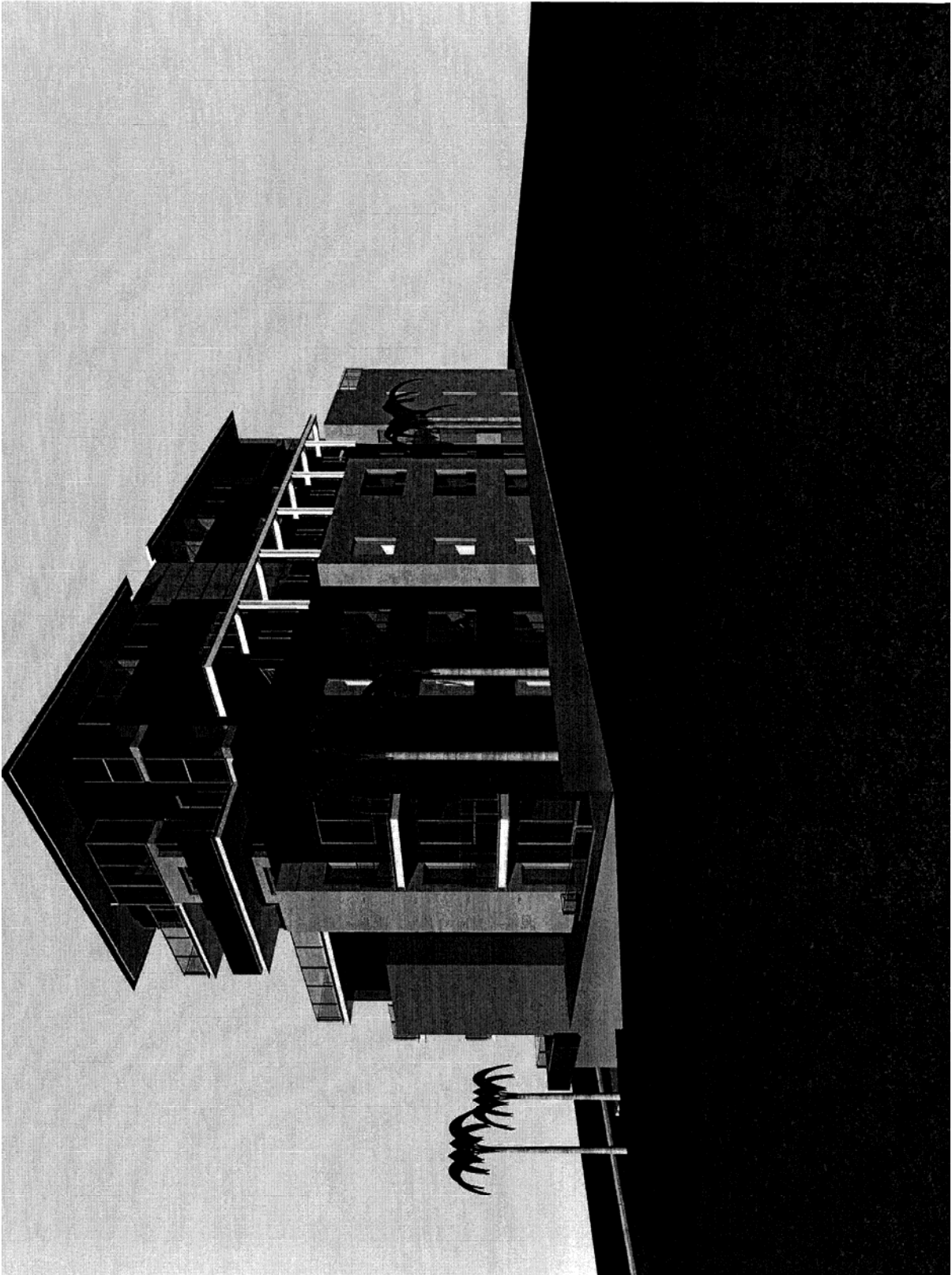
SHADOW DIAGRAMS WINTER

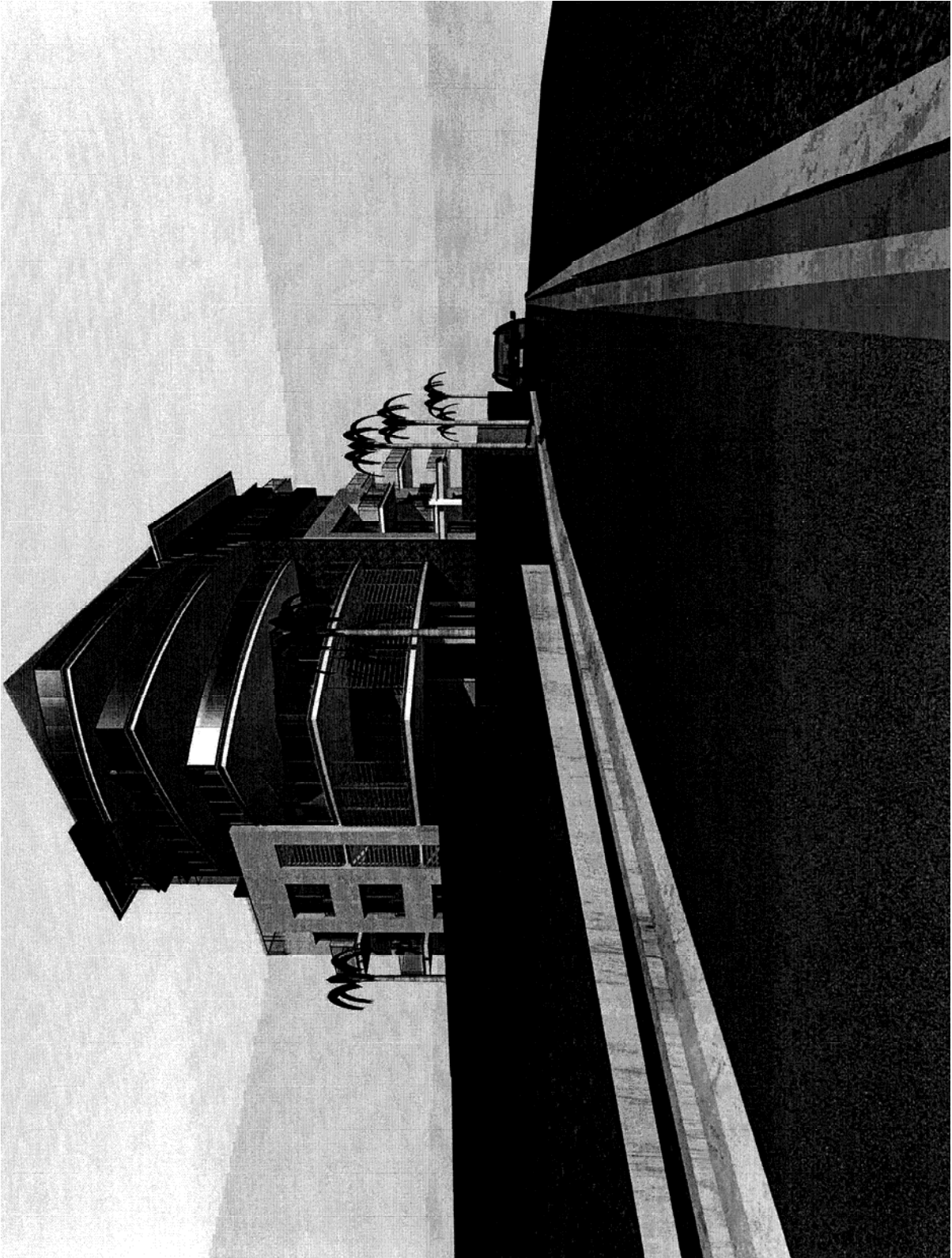
WINTER SOLSTICE - 21st JUNE
LATITUDE 28.1° SOUTH (TRUE NORTH) - TWEED HEADS

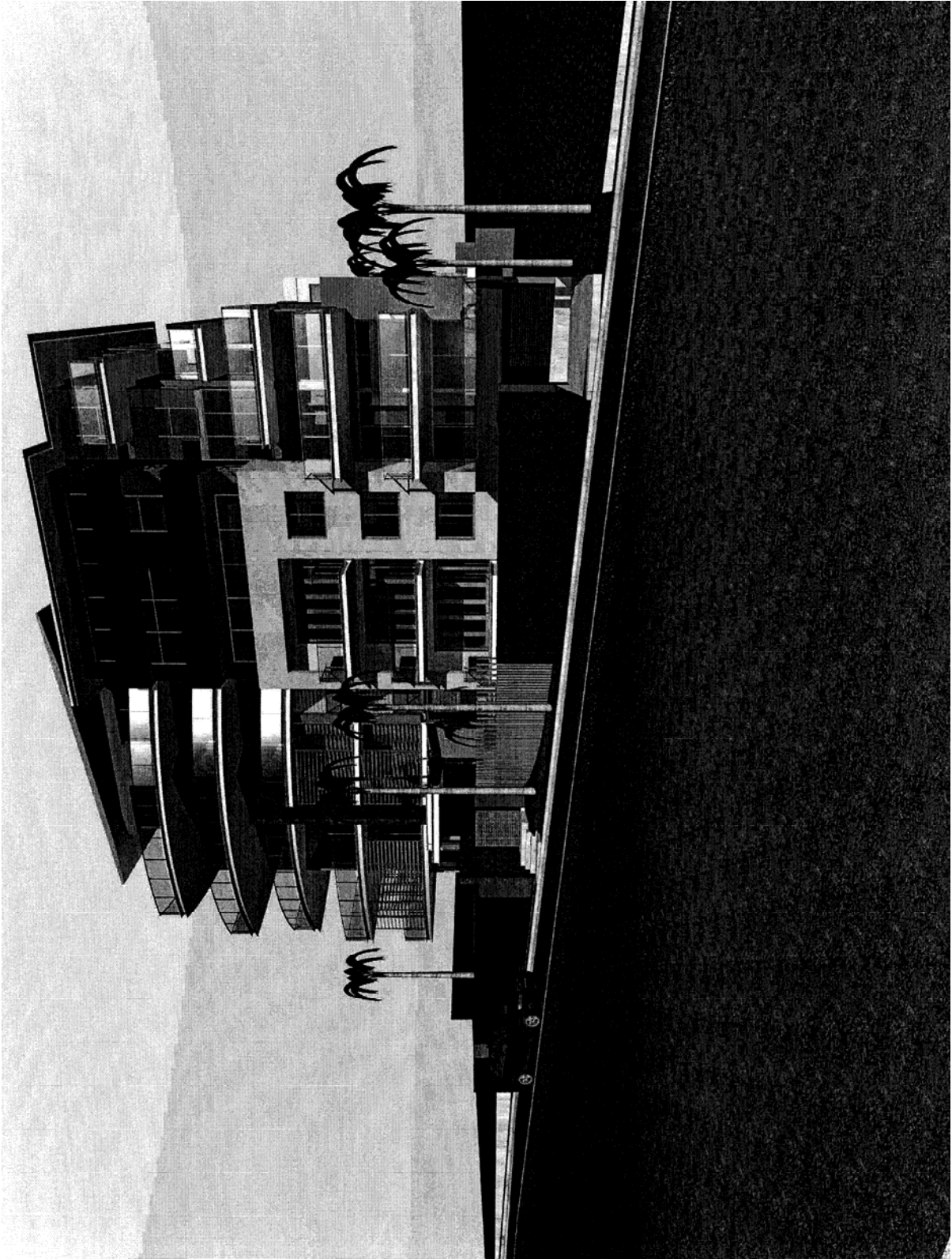
SHADOW DIAGRAMS SUMMER

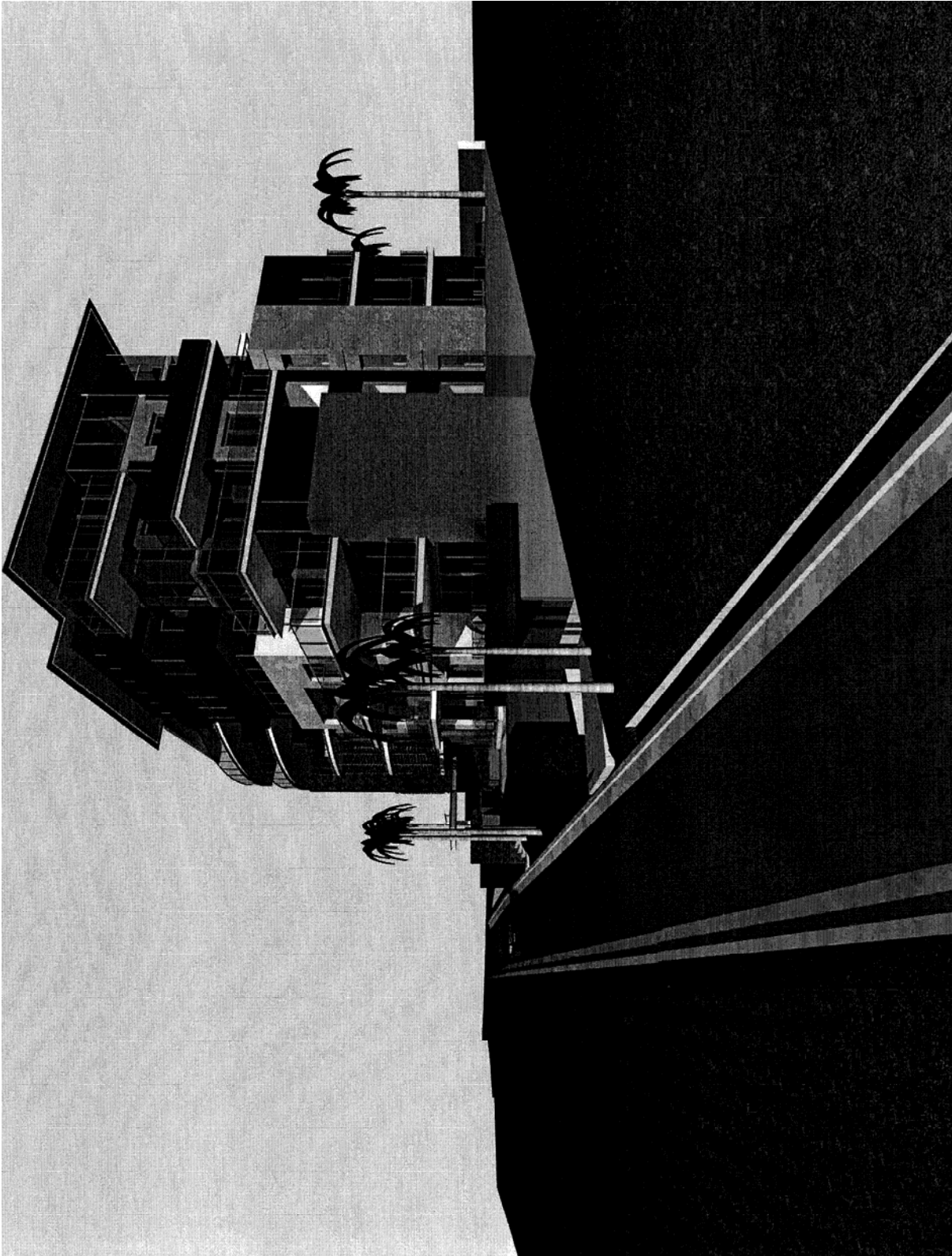
SUMMER SOLSTICE - 21st DECEMBER
LATITUDE 28.1° SOUTH (TRUE NORTH) - TWEED HEADS

				SEAN GARTNER ARCHITECTS		Project: NEW APARTMENTS 2-4 BOUNDARY LANE, TWEED HEADS Client: [Redacted] Date: 11/20/2018		Sheet: 0430 Title: 1:300 - SALL Date: 11/20/2018	
						Drawing: SHADOW DIAGR. - WINTER/SUMMER Scale: A-08 Rev: A			











CONSIDERATIONS UNDER SECTION 79C OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979:

(a) (i) The provisions of any environmental planning instrument

Tweed Local Environmental Plan 2000

The subject site is located within the 2(b) Medium Density Residential zone pursuant to the provisions of TLEP 2000.

The primary objective of the 2(b) zone is as follows:

“To provide for and encourage development for the purpose of medium density housing (and high density housing in proximity to the Tweed Heads sub-regional centre) that achieves good urban design outcomes.”

One of the secondary objectives of the zone is to discourage the under-utilisation of land for residential purposes, particularly close to the Tweed Heads sub – regional centre.

The proposal to construct a 6 storey residential flat building on two parcels of land (with a total area of 904m²) is considered to be high-density development as permitted by the zone.

The site is within walking distance to the Tweed Heads sub regional centre, and the development is of a scale, which utilises the land appropriately for residential purposes. Whilst the design of the development does not detract from the built environment (as it replaces two older dwelling houses) the issues resulting from such a change are discussed in this report.

It is considered the development is consistent with Clause 8, the primary objective of the zone and the applicable secondary objective relating to residential development.

Clause 15 of the TLEP requires Council to be satisfied that the subject land has the benefit of essential services prior to issuing consent. The subject land has the benefit of services and is considered able to support the proposed development. Appropriate conditions of consent are recommended for treatment of stormwater prior to disposal to Councils stormwater network.

Clause 16 of the TLEP requires development to be carried out in accordance with the height limitation plan. The subject land is identified as having a 50m AHD height limitation with an objective to ensure that the height and scale of development is appropriate to its location, surrounding development and the environmental characteristics of the land.

It is considered that the proposed building complies with the 50m AHD height limit by providing a building, which contains six levels (in addition to a two tier basement), reaching a maximum height of 49.8m AHD. The proposal complies with the numerical height requirements and has good urban design principles and incorporates interesting and appealing articulation.

Clause 17 of the TLEP requires a Social Impact Assessment to be submitted for residential development comprising 50 units or more. As the development is for only 12 units it is considered that the proposal in terms of these guidelines will not have a significant social or economic impact upon the area, and a SIA is not required.

Clause 33 of the TLEP requires Council to consider any current obstacle limitation surface plan or procedures for aircraft navigation services. Council has liaised with Mr Ian Rigby who acts for the Gold Coast Airport Limited (GCAL) and has ensured that an approval has been issued under the Airports (Protection of Airspace) Regulations. Additionally Mr Rigby has requested that a condition of consent be imposed to ensure the proponents make an application for any temporary intrusion into the airspace. The following condition has been incorporated in to the recommendation in addition to a condition restricting the top height of the building.

"Any use of a crane or other equipment that may exceed a top RL of 49.5 metres AHD would intrude into the prescribed airspace of Gold Coast Airport, and therefore represent a "controlled activity" under the Airports (Protection of Airspace) Regulations. The proponent must obtain the approval of the Secretary, Department of Transport and Regional Services. An application for the Secretary's approval must be given to the airport lessee company (ie Gold Coast Airport Limited) at least 28 days before the intended commencement of the controlled activity."

Clause 35 of the TLEP requires an acid sulfate soils management plan be assessed where the proposed development is likely to interfere with acid sulfate soils. The subject site is identified as possessing Class 5 Acid Sulphate Soil levels. Council's Environment & Community Services Division, have advised that as the excavations do not extend below RL 5.0m (where ASS are likely to occur) therefore there is no need for an Acid Sulphate Soils Management Plan, or a dewatering permit. However, appropriate conditions of consent have been recommended.

North Coast Regional Environmental Plan 1988

In accordance with Clause 32B of the REP the proposal is considered to be generally consistent with the relevant provisions of the NSW Government Coastal Policy 1997 and the Coastline Management Manual.

The proposal does not incorporate any physical restriction of access to a foreshore area or detrimental impacts upon the coastal character and amenity of the site. Nor does the development overshadow any area of beach or waterfront open space. Accordingly the proposal fully complies with this clause of the REP.

Clause 43 of NCREP 1988 provides guidelines for Council when considering residential development. These controls discuss density, the environmental constraints of the land and road widths.

The proposed density is considered to be a reasonable response to the proposed land use character of the area and will not result in the creation of any adverse physical impacts upon the locality. This is demonstrated through general consistency with the numerical requirements of Council's Local Environmental Plan and Council's numerous Development Control Plans. Further, the existing road widths are adequate for the function of the proposal with a detailed sedimentation and erosion control plan to be enforced in relation to the construction.

Clause 51 of NCREP 1988 relates to buildings greater than 14m in height and requires such buildings to obtain concurrence from the Director General of the Department of Infrastructure Planning and Natural Resources. However Council has been given authority to assume the Director's Concurrence.

Clause 51 states that in deciding whether to grant concurrence to an application the Director (or Council due to our assumed concurrence) shall take into consideration the likely regional implications of the development as regards its social, economic and visual effect and the effect, which it will or is likely to have on the amenity of the area.

It is considered the proposal will not have an adverse social, economic or visual impact regionally, and in local terms, the proposal will not have an adverse impact upon the amenity of the neighbourhood. The issues considered to conclude this involve overshadowing, privacy, loss of view, traffic impacts, bulk and scale and the objectives for the area. Each of these issues are assessed in detail later in this report.

The proposal is considered to be consistent with the provisions of the North Coast Regional Environmental Plan 1988.

State Environmental Planning Policies

State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development

The applicant has submitted a statement addressing the design principles under the SEPP. The following comments are provided on these design principles.

Context and Built Form

The development is considered to be consistent with the desired future character of the area as stated under DCP 18, Tweed Strategy 2000+, and the Tweed Heads Town Centre Master Plan. The area is characterised by numerous residential flat buildings, with remaining undeveloped parcels or older buildings now being pressured by market forces to be re-developed. The proposal is contemporary in design and does not detract from the built environment.

Scale and Density

Having regard to the size of the land and the 50m AHD height limit the proposed building is suitable in terms of bulk and scale. The blocks rectangular shape has allowed for a well-proportioned structure that has deliberately

differentiated the first three floors from the upper three floors creating an interesting facade. The elevations have strong articulation to make them features of the building thus adding architectural merit to the building. Various elements in the design of the proposal including large balcony areas, variation in materials, attractive roof forms and general compliance with the building height plane results in a design that is consistent with the high density planning controls applicable to the site and a building that is appropriate in terms of bulk, scale and character.

Resource Energy and Water

The applicant has submitted a Energy Efficiency Certificate demonstrating that the development has a complying 4 & 5 star energy rating.

Landscaping

The development will be suitably landscaped at ground level and on the podium with native trees and shrubs, to satisfy the provisions of DCP 18. Appropriate conditions of consent have been imposed to ensure that landscaping will be completed prior to occupation of the development.

Amenity

Neighbouring residences have raised concern that the proposal will unreasonably overshadow adjoining properties. The applicant has supported this application with detailed shadow diagrams depicting shadow mid summer and mid winter.

The impacts from the summer shadow diagrams are negligible and are primarily contained within the subject properties boundaries after noon.

The mid winter diagrams demonstrate that adjoining properties will be affected by shadow from the proposed building but only for short periods before the shadow moves throughout the day.

At 9am No. 6 & 8 Boundary Lane will be overshadowed, however, by midday the shadow will have moved over to No. 4 Hill Street. By 3pm mid winter No 2 Hill Street will be the primary property overshadowed by the proposed development.

This shadow pattern is not considered to represent an unreasonable impact on any one property. All adjoining land parcels receive adequate solar access as the day progresses.

Having regard to the applicable planning controls and the desired future urban form of the area it is considered the proposal does not unreasonably detract from the amenity of the area, nor restrict the ability of adjoining parcels to be developed for similar purposes.

In terms of privacy the architect has provided that the proposed building offers a number of design elements to ensure appropriate amenity for residents visitors and neighbours. These measures are considered acceptable to satisfy the amenity objectives of SEPP 65.

Safety and Security

Proposed development includes the following measures for safety and security.

- All units have adequate means for casual surveillance of the street;
- Access into the building will be by way of an intercom device to screen visitors;
- Security Access into the car park;
- An easily recognisable and visible direct pedestrian access; and
- Open space areas will be fenced and appropriately lit.

Social Dimension

Socially the development represents good utilisation of land zoned for medium density development within walking distance to shops, beaches, clubs and other recreational opportunities in the Tweed - Coolangatta Central Business District's.

Aesthetics

The proposal does not detract from the streetscape or the aesthetics of the locality and makes a positive contribution to the area. The building incorporates vertical and horizontal articulation on the four elevations. Appropriate conditions of consent recommended to ensure the proposed building materials are non – reflective.

The overall aesthetics of the building provide a desirable 'Modern or Contemporary' development, which is in keeping with the future character of the surrounding area. It is considered that the proposed building will be prominent, however the height of the building (bulk) will be offset by good urban design and articulation that has been incorporated.

State Environmental Planning Policy No.71 - Coastal Protection

The subject land is not in a sensitive coastal location. The proposed development is 19.8 m above natural ground level at its highest point and as such Council is the consent authority for the proposed development.

Clause 8 of SEPP71 contains matters for consideration that have been addressed by the applicant. The proposed development is located in close proximity to the open space areas of point danger headland, however the proposed development does not result in overshadowing of the foreshore reserve areas.

The proposed development generally complies with the matters for consideration under SEPP71.

Tweed Heads Town Centre Master Plan

The Master Plan establishes a vision for the Town Centre of Tweed Heads which describes the desired future character for Tweed Heads and provides urban guidelines for each precinct together with indicative plans and sections to illustrate the principal planning objectives and design intent.

The subject site is located in the Flagstaff Hill precinct and is restricted to a 6 - storey height limit in accordance with the Plan. The Plan specifically nominates this area as a high-density residential zone that should have quality architectural style responsive to the location and microclimate.

The proposed design of the subject development clearly complies with all aspects of the Master Plan. The building has a distinctive change in form to break up the vertical elements of the proposal which adds to the overall aesthetics of the building.

(a) (ii) The Provisions of any Draft Environmental Planning Instruments

There are no Draft Plans applicable.

(a) (iii) Development Control Plans (DCP's)

Development Control Plan No.2 – Access and Car Parking

Off street car parking needs to be supplied in accordance with DCP2. The following table assesses the proposed development in relation to the requirements of the DCP.

Standard	Requirement	Complies/variation
On site car parking	1.5 per dwelling = 18 Council has also consistently applied a merit based assessment for the provision of 25% of this parking to be allocated to visitor parking. Therefore this development would generate the need for 5 visitor spaces to form part of the 18 spaces	The basement contains thirty one (31) unconstrained spaces. Of these 31 spaces five (5) of them have been marked for visitor use. This is considered acceptable subject to a condition of consent confirming the need for a minimum of five visitor spaces that are clearly signposted accordingly.

The proposed development is considered satisfactory having regard to DCP No. 2 and ensures that there is adequate parking on site for each unit and their visitors.

DCP No. 18 – Tweed Heads

Part 6 – High Density Residential Precinct

The land is identified under the DCP as a high-density residential precinct and is within walking distance to the Tweed Heads/ Coolangatta CBD, clubs, sporting facilities and other recreational opportunities. The proposal being the consolidation of two properties and the construction of 6 storey residential flat building containing 12 units is consistent with the precinct objectives and the vision for Tweed Heads.

Part 9 - Building Height Plane

The proposal seeks a minor variation to the building height plane as stipulated under Part 9.3 of the Policy, which requires the development to be setback 1 metre from the boundary for every 3 metres of building height.

From the plans submitted the proposal has extremely minor areas of walls, and small areas of open decks that encroach the envelope. The minor encroachments for open balconies generally occur at levels 4, 5 and 6 while the minor wall encroachments occur at levels 2 and 3 on the southern side.

The applicant has submitted that the encroachments are minor and are equalised by not utilising other areas of available building envelope. It is further noted that the difference between the proposal and a fully complying building envelope would not result in any significant change to shadow impact.

Having regard to the slope and shape of the site it is considered that the proposal represents a sensible and well-balanced approach to the building envelope control. Furthermore, the development complies with intent of the planning controls with the bulk of the building falling within the building height plane. Considering the minor nature of the encroachments and the benefit the building obtains in articulation as a result, a variation to the Building Height Plane is supported in this particular instance.

Part 11 – Residential Design

The following matters apply to residential buildings comprising 4 storeys or more

Building Mass

The proposal utilises various building elements to break up the bulk and mass of the building. The elevation to the street is articulated providing visual variation and is aesthetic.

Energy efficiency

The applicant has submitted Energy Rating Certificates demonstrating the proposed units are energy efficient.

Wind Mitigation and Overshadowing

Due to the design of the building and the incorporation of adequate setbacks from all boundaries the development will not generate adverse wind conditions, which would affect the public domain or neighbouring properties.

The level of overshadowing is considered acceptable having regard to the movement of the shadow across adjoining properties.

Roof Lines

The roof of the building like the walls incorporates different elements to add visual interest to the design of the proposal.

Privacy

The units and balconies have been orientated in such a way that views are obtained over the tops of the roofs at the rear, with smaller windows at the side elevations to respect adjoining privacy. In addition, adjustable louvre screening is prevalent to the side elevations to assist in privacy.

However, further privacy can be achieved through the use of planter boxes to obscure overlooking, but not prevent distant views.

Security

The development provides good surveillance opportunities to the lane with living areas and balconies on all levels overlooking Boundary Lane. Other security measures include security access to the basement car park and an intercom device at the entrance lobby. Appropriate conditions of consent have been recommended in relation to lighting.

Materials and Colours

The proposal will incorporate rendered and painted surfaces. Appropriate conditions of consent have been recommended to ensure materials and colours are earth tone and non-reflective.

Access and Parking

The notification resulted in local residents expressing concern with the capacity of Boundary Lane to support access for a further 12 units.

The applicant has prepared a traffic and parking statement to analyse the capacity of Boundary Lane for access for this development. The statement concludes that the vehicle generation from the site post development may result in 6 additional vehicle trips per hour. The statement provides that this would not be noticeably different to that of the current use, as the development provides acceptable onsite parking.

Council's Traffic & Transport Engineer and Council's Development Engineer have reviewed the application and provided that Boundary Lane has the capacity to cater for the additional vehicle trips. Conditions of consent will be imposed to ensure that during construction consideration is had for the amenity of the adjoining properties.

Car parking complies with the requirements of the policy with adequate car wash bays incorporated.

Open Space and Balconies

DCP 18 stipulates the requirements for both ground level landscaping and private open space in the form of balconies. The application incorporates a pool and recreational area, some ground level landscaping and extensive podium areas, which incorporate planter boxes, to assist soften the development. The subject application satisfies this criteria and is considered appropriate having regard to useable open space areas.

Development Control Plan No.39 – Energy Efficient Housing

The applicant has submitted a certificate for the proposed development that outlines compliance with the requirements DCP 39 as follows:

Standard	Requirement	Proposal	Complies
Unit Energy rating	3.5 stars minimum	4 –5 stars	YES

Development Control Plan No. 47 – Cut & Fill

The plan limits the depth of cut and fill to 1m unless it can be demonstrated that the earthworks are compatible with the natural landform and will not adversely affect adjoining properties while achieving the objectives of the plan.

The proposed development involves excavation for the basement and will clearly extend beyond 1 metre, however this is considered consistent with recently approved developments. The applicant has substantiated the request with a preliminary geotechnical statement and a stormwater management plan that have been assessed and considered appropriate. Council's Environmental Health Officer, Council's Infrastructure Engineers and Council's Building Surveyor have all reviewed these plans, with no objections raised subject to the recommended conditions of consent.

In all other regards the applicant provides that appropriate measures will be in place to ensure that the proposal is consistent with the objectives of the plan. However, appropriate conditions of consent have been imposed to ensure adequate geotechnical reports are submitted and approved prior to the commencement of construction.

(a) (iv) Any Matters Prescribed by the Regulations

Coastal Policy

The land is identified under the Coastal Policy. However, the site is significantly landward from the Coastal Erosion Zones, and is unlikely to be affected by the coastal processes, overshadowing of the foreshore reserves or restricting public access to the coast. Therefore, the proposed development is not considered to be in conflict with the policies and strategies contained in the coastal policy.

Demolition

The proposal requires the demolition of two existing dwellings. The applicant has not submitted an adequate demolition plan, and subsequently it is recommended that demolition form part of separate development consent. Appropriate conditions of consent have been recommended to control demolition activities.

(b) The likely impacts of the development and the environmental impacts on both the natural and built environments and social and economic impacts in the locality

It is considered the proposed development will not have an adverse impact upon the natural environment as the site is currently developed for residential purposes. In terms of the built environment the proposed residential flat building will replace two dwellings, and as such the development will have an impact upon the built environment. The following issues are raised.

Character of the area

The area is made up of a mix of medium density development comprising mainly residential flat buildings some that have only recently been constructed and older dwelling houses. The area is currently undergoing a transition phase as these older dwellings come under market pressures to be demolished and

the land redeveloped for higher density residential development as encouraged under the applicable planning controls. The proposal is considered not to be out of character with the area and is consistent with the future built form as per Tweed LEP 2000, DCP No. 18 – Tweed Heads, and the Tweed Heads Town Centre Master Plan.

Building Line Variation

The plans submitted identify a building line variation to Boundary Lane for part of the open balconies to be 4.5 metres from the alignment of Boundary Lane. Strictly the Building Line Policy does not apply to laneways, however in this case it is the primary and only frontage for the allotment, and as such the variation is being assessed against the objectives of the Building Line Policy which reads as follows:

- Achieve an attractive and reasonably landscaped streetscape;
- Provide for the safe and convenient circulation of pedestrian and parking of vehicles;
- Control the extent to which buildings overlook, overshadow and effect adjoining properties

The applicant has provided that the external walls to the front boundary comply with the nominated 6m setback criteria and therefore the variation is only for the open balconies. The open balconies recede and protrude in and out of the 6m setbacks to produce an average setback exceeding the required 6m.

Furthermore the applicant has argued that the proposed landscaping provides an emphasis on tall narrow features (palm trees) that provide a filtered screen to the building. The additional landscaping surrounding the building provides a degree of privacy to pedestrians on the street from overlooking.

The proposed variation of 1.5 metres for no more than 14 metres in length is considered minimal and will have negligible impacts on overlooking, overshadowing and general amenity to adjoining properties. Subsequently, the proposed variation is supported as it is considered that the variation in this instance adds to the articulation of the building and compliments the development.

Views

DCP 18 acknowledges that views provide a sense of place and identity, and that key view corridors should be retained. The Senior Commissioner in the Land & Environment Court in *Tenacity Consulting Pty Ltd v Warringah Council* adopted the following four-stage test to assess the reasonableness of view sharing:

1. The first step is the assessment of views to be affected;
2. The second step is to consider from what part of the of the property are the views obtained (an expectation to retain side views and sitting views would be unreasonable);

3. The third step is to assess the extent of the impact (the extent of the impact should be assessed for the whole of the property not just for the view that is affected. This could be done by ranking the affect from negligible to devastating); and
4. The fourth step is to assess the reasonableness of the proposal that is causing the impact (it may be unreasonable if it comes about as a result of non compliance with planning standards).

The proposed development will affect the views in some way from all adjoining properties, as the views currently enjoyed are generally panoramic.

The views would generally be obtained from the upper floors of the buildings (maximum fourth storey). The view would be obtained from various areas including side facing windows from bathrooms, bedrooms, living areas, external balconies, bedrooms, living and dining areas when standing up.

The impact on these properties would be a sense of enclosure and loss of partial views, which provide a higher level of amenity, however this impact would be considered acceptable given the panoramic views that these properties experience. The view to be lost is only one aspect of their view and could therefore allow for a reasonable sharing of views.

In assessing the reasonableness of the proposed application it has been determined that the building satisfies the intent for the character of the area, while complying with the height and satisfying Council that the application has had adequate regard for the amenity of adjoining property in terms of shadow, privacy and general amenity.

Therefore, it is concluded that the loss of view that will result from the construction of the proposed building is not unreasonable.

It is further noted that although the site is at the top of the precinct, the proposal will be hardly visible from Razorback Ridge, as it exists within the context of several other flat buildings on the western edge of the precinct between the site and Razorback Ridge.

Front Fence Height Variation

The plans submitted identify a fence across the front of the property (to Boundary Lane), which varies in height from 1.6 to 2.8m. The plans show that it varies from a rendered masonry fence to a timber fence with a landscaping screen in front. The proposed height of 2.8m is considered excessive and it is therefore recommended to condition the application to have a front fence that steps down the site to ensure there is no part of the fence higher than 1.6m. The variation from 1.2 metres to 1.6 metres is considered to assist in the design of the building by complimenting the development.

Excavation Policy

Excavation is proposed to the boundary of Boundary Lane and along the southern property boundary. Therefore following discussions with Council's

Senior Building Surveyor it is recommended in this instance to recommend conditions of consent to ensure compliance with the nominated Policy as follows:

1. *Prior to Issue Of Construction Certificate the applicant shall submit to Council for approval an appraisal carried out by a Geotechnical Consultant of the effect of the proposed excavation including any precautions considered necessary to protect such properties from damage on accordance with Tweed Shire Council's Building Excavation Dewatering Policy.*
2. *Prior to Issue of Construction Certificate the applicant shall submit to Council documentation demonstrating General Public Liability Insurance to the value of \$5,000,000 which includes loss of support to neighbouring properties which is attributed to excavation vibration associated with the project in accordance with Tweed Shire Council's Building Excavation Dewatering Policy.*
3. *All works (including support structures for excavation such as sheet piling) are to occur within the confines of the subject property boundaries.*

(c) Suitability of the site for the development

The subject site is within close proximity to the commercial business districts of Tweed Heads and Coolangatta, which provide for a variety of shopping, dining, and recreational opportunities. The area is also serviced by medical facilities including the Tweed Heads Hospital and various professional consulting rooms in Boyd Street.

The subject site has been nominated as a designated high-density residential area to utilise the areas facilities as detailed above. Additionally the site has the benefit of a 50m AHD height limitation, which further encourages high-density development for the area. The existing public infrastructure is adequate to service the proposed residential flat building, as the area is not subject to any known hazard such as slip, flood or bushfire. The site of the proposed development is considered suitable for this type of development and encouraged through our strategic plan for the area.

(d) Any submissions made in accordance with the Act or Regulations

The proposal was advertised and notified for a period of 14 days from 16 March 2005 to 1 April 2005. During this period Council received fifteen individual objections.

The grounds for objection are discussed in the below table.

OBJECTION	IMPACT ASSESSMENT
<i>A variation to the DCP having regard to privacy and overshadowing should not be supported.</i>	Council's Development Control Plans are outcomes based and provide numerical specifications for guidance and in some instances strict compliances. As detailed in the above report the proposed variations are considered minor and do not warrant amendment or refusal of this application.
<i>The DA should have been accompanied with as shadow diagram as</i>	Shadow diagrams accompanied the application to assist in the assessment of the application. As detailed in the above report the implications from shadow are considered not to adversely

OBJECTION	IMPACT ASSESSMENT
<i>impacts on adjoining properties would be major.</i>	affect any one property to an unreasonable level.
<i>A previous DA was refused on density, parking, and shadowing grounds. Since then the requirements have not changed.</i>	The previously refused application was only for development over No. 2 Boundary Lane which was some 300m ² , and subsequently the proposed five storey building in that instance was considered an over development of the site. This application has been assessed on its merits and is considered to warrant conditional consent.
<i>Air Conditioning on the southern side would be too noisy.</i>	Council's Environmental Health Officer has reviewed the proposal in this regard and recommended appropriate conditions regarding noise generation.
<i>Excavation should not go to the boundary to ensure protection of my property.</i>	Council's excavation policy requires appropriate measures are undertaken to ensure the stability of adjoining land. Strict conditions of consent have been recommended in this regard.
<i>Removal of a dwelling so young in age is a waste of building materials.</i>	Council is obligated to undertake an assessment of all applications received whether or not there is substantial infrastructure on the land or not. The current dwellings are considered an under utilisation of land given the objectives contained within the Tweed Heads Centre Master Plan and DCP 18 and subsequently the current application is considered appropriate.
<i>This development has not considered privacy implications on buildings that have yet to be built.</i>	It would be unreasonable to expect this application to pre-empt what developments will be built in the future. However, any purchasers of the subject units must do so on the understanding that their view and amenity may in time be impacted upon by future developments which will also be assessed on their merits.
<i>A higher density would be inappropriate for such a coastal location. Tall buildings belong away from the beach, river or lake.</i>	This opinion is contrary to the adopted plans for the Tweed Heads area. The proposed development is considered to be consistent with the relevant plans policies.
<i>The development is out of keeping with existing development</i>	Flagstaff Hill is a nominated high-density precinct, however, the area presently exhibits a mixture of residential flat buildings and single dwellings. Subsequently the proposed development is not going to be in character with these single dwellings. Notwithstanding, the proposed development is of a high urban design standard and has had regard for all of the planning policies in place to ensure the future desired character of the area is achieved.
<i>Excavation will undermine the strength and support of the foundations of neighbouring properties</i>	Council's Excavation Policy ensures that the necessary studies and precautionary action is taken to ensure neighbouring properties are protected. Appropriate conditions of consent have been imposed
<i>Construction will cause disruption to traffic flow in the Lane.</i>	Unfortunately construction does cause disruption to adjoining properties, however, Council has standard conditions of consent to try to mitigate any adverse impact. Should residents have concerns during construction the Principal Certifying Authority can be contacted.
<i>There is insufficient parking.</i>	The proposed development provides 13 more on site car spaces than that required by DCP No. 2. Subsequently, the proposed development is considered satisfactory on parking grounds.
<i>Are shadows within regulations?</i>	As detailed in the above report the expected shadow from the development will not unreasonable impact on any one property thereby complying with the minimal policy requirements.
<i>What protection will be</i>	During demolition the applicant will be required to comply with all

OBJECTION	IMPACT ASSESSMENT
<i>provided against any asbestos dust that may arise form demolition?</i>	Australian Standards regarding hazardous materials.
<i>During construction trade vehicles will disrupt traffic.</i>	Council has standard conditions of consent to try to mitigate any adverse impact. Should residents have concerns during construction the Principal Certifying Authority can be contacted.
<i>Have you ensured height and boundary restrictions have been complied with?</i>	The above report details the nominated requirements and details how the development satisfies the policy controls.
<i>We thought there was a 2-storey height limit why has a six-storey building materialised?</i>	The subject site has been a nominated high-density area for some time. Additionally more recently the Tweed Heads Town Centre Master Plan has re-assess height controls and as a result a draft LEP Amendment is being prepared for exhibition and public consultation.
<i>Height controls should be specific to an area taking in the uniqueness of any given area and should not exceed four stories in this area.</i>	Recent studies have undertaken detailed analysis of this issue. Following those studies it is envisaged that the subject area will be limited to a six-storey height limit as opposed to a 50m AHD height limit. Then each application will be subject to individual merit assessments.
<i>Building setbacks and envelopes have not been complied with.</i>	As detailed in the above report the minor variations are not considered to result in an unreasonable impact on any one property thereby satisfying the objectives of the controls.
<i>The existing two dwelling accommodate 3 cars this development will cater for 31 cars an increase of 1033%.</i>	The proposed development provides 13 more on site car spaces than that required by DCP No. 2. Subsequently, the proposed development is considered satisfactory on parking grounds.
<i>Privacy for dwellings to the north will be lost.</i>	In high density areas private open space areas do become compromised, and subsequently in this instance dwellings to the north will lose some privacy. However, balconies have been positioned to capture the ocean outlooks not the adjoining private open spaces areas. Landscaping will be utilised to minimise as much as possible the privacy implications.
<i>Views will be lost or at least negatively affected.</i>	As detailed in the above report the development will impact on some views currently enjoyed, however, there is opportunity for view sharing given the panoramic views currently experienced.
<i>Pedestrian usage in the Lane is high but there is no footpath.</i>	Council's traffic and transport engineer has recommended a condition of consent requiring the applicant to construct a footpath between the kerb and property boundary for the length of the building.
<i>The design will just add a huge bulk not minimise visual or physical impact.</i>	The proposed development is considered to be of high architectural merit. Any six storey building is going to add to the bulk of the existing streetscape, however, through interesting design and attractive features the impact from this development is considered to be minimised.
<i>Access to the lane is limited as it is narrow lane – the laneway should be kept clear at all times to accommodate medical emergencies.</i>	During construction the proposed development will be required to comply with the nominated conditions of consent which govern hours of operation and the way in which the site will be worked.
<i>Approval of this type of housing would lead to more approvals like this which would be out of character with the existing developments.</i>	Each application received by Council is assessed on its individual merits having regard to the applicable planning controls in place at the given time. The proposed development is not considered to set any precedent given the high level of architectural merit of the application and the sites particular constraints.
<i>I object to the set of</i>	Council's Traffic and Transport Engineer has reviewed the

OBJECTION	IMPACT ASSESSMENT
<i>stairs in the road reserve.</i>	proposal and determined that this element of the design should be removed. Appropriate conditions of consent have been recommended.
<i>We should be doing everything we can to stop beach erosion by avoiding buildings close to the coast.</i>	The proposed development is westward of the coastal erosion line and subsequently development on this site is considered suitable. Therefore there is no change recommended to the plans.

(e) Public interest

The creation of documents such as The Tweed Heads Town Centre Master plan and DCP 18 have provided the framework for developments in the Tweed Heads area. These plans were exhibited to the general public and once adopted are considered to be documents that represent the interest of the public to ensure development standards are maintained.

The proposed development has been designed having regard to the objectives and design outcomes listed in the relevant documents. The minor variations requested in no way compromise the broad objectives but rather improve articulation and ensure consistency in design. Strict compliance in this instance would not necessarily achieve better outcomes and subsequently, the proposed development is considered to reflect the intended development for the locality.

OPTIONS:

1. Approve the application in accordance with the recommended conditions.
2. Refuse the application and defend the appeal in the Land & Environment Court.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

The applicant has lodged a Deemed Refusal Class 1 Appeal with the Land and Environment Court. Should Council approve the application it is anticipated that the appeal would be withdrawn.

POLICY IMPLICATIONS:

Nil.

CONCLUSION:

The proposed development has provided high density residential development in an area nominated for such a use given its close proximity to the commercial business districts of Tweed Heads and Coolangatta, which provide for a variety of shopping, dining, and recreational opportunities.

The existing public infrastructure is adequate to service the proposed residential flat building, as the area is not subject to any known hazard such as slip, flood or bushfire. Furthermore, the local road network surrounding the site is suitable for such a development especially when additional basement car parking is provided to that required.

The merit assessment of the applicable issues relating specifically to the building envelope, setbacks, privacy, and loss of views are not considered to be unsustainable or result in an over development of the site.

The site of the proposed development is considered suitable for this type of development and encouraged through Council's strategic planning documents for the area. Having had regard for the proposed development and controls provided for the site it is considered that conditional consent is warranted.

UNDER SEPARATE COVER/FURTHER INFORMATION:

1. Confidential Floor Plans
-

TITLE: [PD] Development Application DA05/0195 for a Residential Flat Building 6 Storeys Comprising 12 Units and Two Levels of Underground Car Parking at Lot C DP 406494 No. 2 Boundary Lane and Lot 1 DP 350710 No. 4 Boundary Lane, Tweed Heads

ORIGIN:

Development Assessment

FILE NO: DA05/0195 Pt1

SUMMARY OF REPORT:

At the Planning Committee meeting of 20 July 2005 it was resolved as follows: -

***"RECOMMENDED** that this item be reported to the next Council meeting for approval which addresses the concerns incorporated the draft conditions raised in (a) and (b) above being:*

- a) *Traffic management/calming, a "road capacity study" of Boundary Lane, Tweed Heads addressing vehicle movements and pedestrian movement capacity,*
- b)
 - i) *Privacy and landscaping plan requirements in relation to adjoining properties*
 - ii) *Better articulation of the south-eastern façade,*
 - iii) *A Site Manager being available during construction as a point of contact for access, traffic issues and to oversee that the amount of construction unloading/loading that can be undertaken on site be carried out on site.*
 - iv) *Consideration be given to conditions in the development consent to minimise the impact of increased number of garbage bins.*
 - v) *Panel of finishes and materials to be used on the exterior are to be provided."*

In accordance with the above resolution the revised recommendation is below with the new conditions underlined. However, in accordance with recommendation (a) the following is provided: -

- (a) Boundary Lane currently has 3 speed humps that act as traffic calming devices. Council's Technical Officer does not recommend further speed humps or raised platforms in a residential laneway due to potential noise and amenity issues. However, Boundary Lane in itself is considered to restrict speed due to its width, one way nature and grade. It should be further noted that there is no accident record in this laneway.
- (b) In regard to the capacity of Boundary Lane, Council's Traffic and Transport Engineer has provided that based on the capacity of a two (2) lane two (2) way road which can carry 16,000 vehicles per day, a one way carriage could potentially carry 8,000 vehicles per day. However, this would be with unrestricted flow and would have no regard for amenity. To allow for the number of driveways this figure should be reduced by 50% to 4,000 vehicles per day for the capacity of the lane (this equates to 400 vehicles in the peak hour). What this demonstrates is that the capacity of Boundary Lane is in

excess of any potential traffic generation from both the existing and any future development that requires access off the laneway. Any future application relying on access off Boundary Lane will need to be assessed on its individual merits having regard to the geometry of the laneway.

Based on this advice no additional conditions are proposed in relation to traffic calming or road capacity studies.

RECOMMENDATION:

That: -

- 1. Council utilises its assumed concurrence in relation to the North Coast Regional Environmental Plan Clause 51 - Tall Buildings.**
- 2. Council generally supports the application and refers it to the Director Planning & Development to negotiate a contribution of \$2,000 per unit under a voluntary agreement for public infrastructure identified in the Tweed Heads Master Plan.**
- 3. The approval be issued by the Director Planning & Development under delegation in accordance with the following conditions: -**

GENERAL

- 1. The development shall be completed in accordance with the Statement of Environmental Effects and Plan Nos A01 - A07 prepared by Sean Gartner Architects and dated February 2005, except where varied by these conditions.**
[GEN0010]
- 2. No part of the proposed development shall exceed RL 49.8m AHD.**
[GEN0010]
- 3. The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia.**
[GEN0120]
- 4. The erection of a building in accordance with a development consent must not be commenced until:**
 - (a) a construction certificate for the building work has been issued by the consent authority, the council (if the council is not the consent authority) or an accredited certifier, and**
 - (b) the person having the benefit of the development consent has:**
 - (i) appointed a principal certifying authority for the building work, and**
 - (ii) notified the principal certifying authority that the person will carry out the building work as an owner-builder, if that is the case, and**

(b1) the principal certifying authority has, no later than 2 days before the building work commences:

- (i) notified the consent authority and the council (if the council is not the consent authority) of his or her appointment, and**
- (ii) notified the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and**

(b2) the person having the benefit of the development consent, if not carrying out the work as an owner-building, has:

- (i) appointed a principal contractor for the building work who must be the holder of a contractor licence if any residential work is involved, and**
- (ii) notified the principal certifying authority of any such appointment, and**
- (iii) unless that person is the principal contractor, notified the principal contractor of any critical stage inspection and other inspections that are to be carried out in respect of the building work.**

[GEN0150]

5. Any use of a crane or other equipment that may exceed a top RL of 49.5 metres AHD would intrude into the prescribed airspace of Gold Coast Airport, and therefore represent a "controlled activity" under the Airports (Protection of Airspace) Regulations. The proponent must obtain the approval of the Secretary, Department of Transport and Regional Services. An application for the Secretary's approval must be given to the airport lessee company (ie Gold Coast Airport Limited) at least 28 days before the intended commencement of the controlled activity.

[GENNS01]

6. Approval is given subject to the location of, protection of, and/or any necessary modifications to any existing public utilities situated within the subject property.

[GEN0030]

7. The enclosed portion of the building is to stand a minimum of 6 metres from the front boundary of the property.

[GEN0080]

8. The boundary fence to Boundary Lane is to be no greater than 1.6 metres in height and is to step down the site accordingly.

[GENNS02]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

9. Section 94 Contributions

- (i) **Payment of the following contributions pursuant to Section 94 of the Act and the relevant Section 94 Plan.**

Pursuant to Clause 146 of the Environmental Planning and Assessment Regulations, 2000, a Construction Certificate shall NOT be issued by a Certifying Authority unless all Section 94 Contributions have been paid and the Certifying Authority has sighted Council's "Contribution Sheet" signed by an authorised officer of Council.

These charges will remain fixed for a period of 12 months from the date of this consent and thereafter in accordance with the rates applicable in the current version/edition of the relevant Section 94 Plan current at the time of the payment.

A copy of the Section 94 contribution plans may be inspected at the Civic and Cultural Centres, Tumbulgum Road, Murwillumbah and Brett Street, Tweed Heads.

a.	Tweed Road Contribution Plan: S94 Plan No. 4 (Version 4.0) Sector1_4	\$6,697
b.	Open Space (Structured): S94 Plan No. 5	\$4,560
c.	Open Space (Casual): S94 Plan No. 5	\$974
d.	Shirewide Library Facilities: S94 Plan No. 11	\$4,024
e.	Eviron Cemetery/Crematorium Facilities: S94 Plan No. 13	\$818
f.	Emergency Facilities (Surf Lifesaving) (REMSHIRE) S94 Plan No. 16	\$1,262
g.	Extensions to Council Administration Offices & Technical Support Facilities S94 Plan No. 18	\$2,449.25
h.	Cycleways S94 Plan No. 22	\$940
i.	Regional Open Space (Structured) S94 Plan No. 26	\$6,875
j.	Regional Open Space (Casual) S94 Plan No. 26	\$1,286

10. A certificate of compliance (CC) under Sections 305, 306 and 307 of the Water Management Act 2000 is to be obtained from Council to verify that the necessary requirements for the supply of water and sewerage to the development have been made with the Tweed Shire Council.

Pursuant to Clause 146 of the Environmental Planning and Assessment Regulations, 2000, a Construction Certificate shall NOT be issued by a Certifying Authority unless all Section 64 Contributions have been paid and the Certifying Authority has sighted Council's "Contribution Sheet" and a "Certificate of Compliance" signed by an authorised officer of Council.

Annexed hereto is an information sheet indicating the procedure to follow to obtain a Certificate of Compliance:

Water DSP4: 5.5 ET @ \$4230	\$23,265
Sewer Banora: 9.25 ET @ \$2634	\$24,365

These charges to remain fixed for a period of twelve (12) months from the date of this consent and thereafter in accordance with the rates applicable in Council's adopted Fees and Charges current at the time of payment.

Note: The Environmental Planning and Assessment Act, 1979 (as amended) makes no provision for works under the Water Management Act 2000 to be certified by an Accredited Certifier.

[PCC0070/PSC0004]

11. Waste material (soil, concrete, timber, masonry, steel and the like) generated by the development shall be disposed of in accordance with a Waste Management Plan which shall be submitted to and approved by the Director of Environment and Community Services PRIOR to the issue of a construction certificate.

The Plan shall specify how the waste is to be treated and/or where the waste is to be disposed of.

[PCC0130]

12. Permanent Stormwater Quality Treatment

(a) Permanent stormwater quality treatment shall comply with "*Tweed Urban Stormwater Quality Management Plan*" (adopted by Council 19 April 2000) section 5.5.3 "Stormwater Objectives During the Post Construction or Occupational Phase of Development". New development is required to comply with table 5.4 of the plan and demonstrate compliance by modelling in accordance with section 5.5.4. Section 5.5.5 of the plan further advises that treatment that is in accordance with the "deemed to comply" provisions of *Appendix E - Tweed Shire Council, Aus-Spec D7 - Stormwater Quality* is deemed to comply with the objectives in 5.5.3.

- (b) **Water sensitive design practices shall be adopted. Where it is practical, water quality features are to be designed into the land development site rather than rely on special end of pipe devices to strip pollutants and nutrients from stormwater prior to discharge. Typical water quality features that can be designed into the site development include use of porous pavements, directing runoff over filter strips or grass swales in landscaped areas, utilising landscaping as an integral part of stormwater quality management, maximising use of infiltration and stormwater reuse (eg. Rainwater tanks). These features can be complemented by site management practices which minimise creation of stormwater pollutants and nutrients and provide for appropriate operation, cleaning and maintenance of water quality control devices.**
- (c) **The Construction Certificate Application must include a detailed stormwater management plan (SWMP) for the occupational or use stage of the development, prepared in accordance with Section D7.07 of *Tweed Shire Council Aus-Spec D7 - Stormwater Quality*.**
- (d) **Specific requirements:**
 - (i) **Runoff from driveway and basement car park areas must be treated to remove oil and sediment pollutants prior to discharge to the public realm. Permanent treatment devices must be sized in accordance with Section D7.12 of Council's Development Design Specification D7 - Stormwater Quality. Full engineering details of all treatment devices, including maintenance schedules, must be submitted with a s68 Stormwater Application for approval prior to the issue of a Construction Certificate.**
 - (ii) **Dedicated car wash bays must be bunded to prevent contamination of basement stormwater. All collected carwash runoff must be treated to remove oil and sediment pollutants prior to discharge to sewer, requiring a Tweed Shire Council Trade Waste Application.**

[PCC0230]

13. Erosion and Sediment Control During the Construction Phase of Development

- (a) **Construction phase stormwater quality treatment (erosion and sediment control) shall be designed and constructed in accordance with detailed engineering plans to be submitted and approved with the Construction Certificate. Erosion and sediment control shall be in accordance with *the "Tweed Urban Stormwater Quality Management Plan"* (adopted by Council 19 April 2000) section 5.5.2 "Stormwater Objectives During the Construction Phase of New Development". This section requires**

all new development to comply with Appendix E of the Plan "*Tweed Shire Council Aus-Spec D7 - Stormwater Quality*" and its Annexure A - "Code of Practice for Soil and Water Management on Construction Works". Erosion and sediment controls shall remain in place until final approval is given and the maintenance bond (if required) has been released.

- (b) The Construction Certificate Application must include a detailed erosion and sediment control plan (ESCP) for the construction phase of development, prepared in accordance with Section D7.07 of *Tweed Shire Council Aus-Spec D7 - Stormwater Quality*.

[PCC0320]

14. The legal point of discharge for the subject development is via discharge into the public drainage system in Boundary Lane.
15. Construction Certificate drawings shall make provisions for the regrading of the subject site in accordance with Council's Development Control Plan 47 "Cut and Fill on residential Land " or to the satisfaction of the Director Engineering and Operations Division.
16. All retaining walls in excess of 1.2m are to be designed by a suitably qualified geotechnical / structural engineer in accordance with AS4678 - 2002 - Earth Retaining Structures. A report that details compliance with the design provisions of this standard is to accompany the Construction Certificate drawings.
17. Prior to the issuing of a Construction Certificate, a full geotechnical assessment of the site is to be carried out and a report submitted to Council for approval. The report must include recommendations relating to site stability, proposed on-site excavation works including temporary and permanent retention methods proposed for the protection of adjacent structures, foundation design parameters, construction theories, as well as any other geotechnical matters of relevance relating to the proposed development. The report should detail any precautions considered necessary to protect such properties from damage in accordance with Tweed Shire Council's Building Excavation Dewatering Policy.

[PCCNS01]

[PCCNS01]

[PCCNS01]

Ground anchors to retain sacrificial sheet piling (as required) will not be allowed within Council property without prior approval for installation by the Director Engineering and Operations Division and removal on completion or substantial financial compensation. Council will only allow ground anchors with neighbouring private property if consent by the owners of the property to be burdened is obtained prior to installation.

[PCCNS01]

18. Prior to Issue of Construction Certificate the applicant shall submit to Council documentation demonstrating General Public Liability

Insurance to the value of \$5,000,000 which includes loss of support to neighbouring properties which is attributed to excavation vibration associated with the project in accordance with Tweed Shire Council's Building Excavation Dewatering Policy.

[PCCNS04]

19. An on site detention (OSD) system shall be installed in general accordance with stormwater management details provided by Northern Beaches Consulting Engineers (dated 21 February 2005, ref 041219), to limit peak stormwater discharge from the site to the public realm to 200L/s/ha in events of intensity up to the ARI 100 year design storm. These works and the connection to Council's drainage system shall be constructed in accordance with detailed design calculations, plans and specifications to be submitted with the construction certificate application and approved by the Director Engineering & Operations. Invert levels of all devices shall be reviewed to ensure efficient conveyance of stormwater to the Boundary Lane kerb and gutter.
- [PCCNS01]
20. Notwithstanding the issue of this development consent, separate consent from Council under Section 138 of the Roads Act 1993, must be obtained prior to any works taking place within the public road including the construction of new driveway access, footpath or kerb and gutter construction. Applications for consent under Section 138 must be submitted on Council's standard application form and be accompanied by the required attachments and prescribed fee.
- [PCCNS01]
21. Appropriate arrangements to the satisfaction of Council's DECS shall be provided for the storage and removal of garbage and other waste products.
- [PCCNS02]
22. Prior to the installation of any air conditioning systems, details of the units and locations proposed shall be supplied to Council's Environment and Health Unit for review and approval.
- [PCCNS03]
23. Prior to the issue of a Construction Certificate, the applicant will submit a detailed privacy and landscape plan to Council for the approval of the Director of Planning and Development (in consultation with the Chair of Planning) which will include: -
- (a) A 1:100 plan of the exterior area with proposed surfaces, trees, plants and other landscape elements.
 - (b) Details of any proposed earthworks.
 - (c) Details of drainage and watering system.
 - (d) Management plan for the landscaped area post completion of the building.
- [PCC0010]
24. A construction certificate application for works that involve any of the following:-

- connection of a private stormwater drain to a public stormwater drain
- installation of stormwater quality control devices
- erosion and sediment control works

will not be approved until prior separate approval to do so has been granted by Council under section 68 of the Local Government Act 1993.

Applications for these works must be submitted on Council's standard s68 stormwater drainage application form accompanied by the required attachments and the prescribed fee.

[PCC0240]

25. A traffic control plan that complies with the provisions of the RTA document "Traffic Control at Work Sites" Version 2 shall be prepared by a person who is qualified, authorised and has passed an RTA approved training course, and submitted to Council, prior to issue of the Construction Certificate. All works are to comply with the Occupational Health and Safety Act and the RTA document and the approval particularly in respect to works on public roads. Safe public access shall be provided at all times.

[PCC0040]

26. Prior to issue of the Construction Certificate Council is to be advised of contact details of the site manager who is to be available during construction as a point of contact for access, traffic issues and to oversee the amount of construction unloading/loading and to ensure that all machinery is kept on site as much as is practical.

27. Prior to the issue of the Construction Certificate the applicant is to submit to the Director of Environment and Community Services for approval a revised plan demonstrating the management of waste disposal in an attempt to reduce the visual impact from garbage bins on Boundary Lane on collection day.

28. Prior to the issue of the Construction Certificate, the following details shall be provided for approval by the applicant to the Director of Planning and Development (in consultation with the Chair of the Planning Committee): -

- (a) Details of all external materials and finishes to be used on the building exterior, including glazing material.
- (b) Details at a scale of 1:100 illustrating the design of all decorative elements and details, windows, louvers and any other details.

29. Prior to the issue of the Construction Certificate, Council is to receive a revised south eastern elevation that provides greater detail and contrast through use of materials to reduce the visual impact of this facade.

PRIOR TO COMMENCEMENT OF WORK

- 30. Please note that while the proposal, subject to the conditions of approval, may comply with the provisions of the Building Code of Australia for persons with disabilities your attention is drawn to the Disability Discrimination Act which may contain requirements in excess of those under the Building Code of Australia. It is therefore recommended that these provisions be investigated prior to start of works to determine the necessity for them to be incorporated within the design.**
- [PCW0010]
- 31. A temporary builder's toilet is to be provided prior to commencement of work at the rate of one (1) closet for every twenty (20) persons or part of twenty (20) persons employed at the site. Each toilet provided must be:-**
- (a) a standard flushing toilet connected to a public sewer, or**
 - (b) if that is not practicable, an accredited sewage management facility approved by the council, or**
 - (c) if that is not practicable, any other sewage management facility approved by the council.**
- [PCW0060]
- 32. Where prescribed by the provisions of the Environmental Planning and Assessment Amendment (Quality of Construction) Act 2003, a sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:**
- (a) showing the name, address and telephone number of the principal certifying authority for the work, and**
 - (b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and**
 - (c) stating that unauthorised entry to the site is prohibited.**
- Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.**
- [PCW0070]
- 33. It is a condition of this approval that, if an excavation extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made must comply with the following:**
- (a) The person must, at the person's own expense:**
 - i. preserve and protect the building from damage; and**
 - ii. if necessary, underpin and support the building in an approved manner.**
 - (b) The person must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining**

allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars to the owner of the proposed work.

[PCW0080]

34. Prior to work commencing, a "Notice of Commencement of Building or Subdivision Work and Appointment of Principal Certifying Authority" shall be submitted to Council at least 2 days prior to work commencing.

[PCW0090]

35. An application to connect to Council's sewer or carry out plumbing and drainage works, together with any prescribed fees including inspection fees, is to be submitted to and approved by Council prior to the commencement of any building works on the site.

[PCW0210]

36. Prior to commencement of building works provide hydraulic drawings on the proposed sewer drainage systems including pipe sizes, details of materials and discharge temperatures.

[PCW0230]

37. Prior to commencement of work on the site all erosion and sedimentation control measures are to be installed and operational to the satisfaction of the Principal Certifying Authority. In addition to these measures an appropriate sign is to be clearly displayed on the most prominent position of the sediment fence or erosion control device which promotes awareness of the importance of the erosion and sediment controls provided.

Please note that this sign is to remain in position for the duration of the project.

[PCW0280]

38. Prior to commencement of any demolition works, drainage is to be disconnected from Council's Sewerage reticulation at the building's connection point. This work is to be carried out by Council staff at developers cost as per Council's current Fees and Charges.

[PCW0300]

39. Prior to the commencement of any demolition works on the site a development application for demolition is to be submitted to and approved of by Council.

[PCWNS01]

40. Prior to commencement of works all required sedimentation and siltation control measures are to be installed and operational to the satisfaction of the Principal Certifying Authority.

Erosion and sediment control shall be in accordance with *the "Tweed Urban Stormwater Quality Management Plan"* (adopted by Council 19 April 2000) section 5.5.2 "Stormwater Objectives During the Construction Phase of New Development". This section requires all new development to comply with Appendix E of the Plan "*Tweed Shire Council Aus-Spec D7 - Stormwater Quality*" and its Annexure A

- "Code of Practice for Soil and Water Management on Construction Works". Erosion and sediment controls shall remain in place until final approval is given and the maintenance bond has been released.

[PCW0190]

DURING CONSTRUCTION

41. All building work (other than work relating to the erection of a temporary building) must be carried out in accordance with the requirements of the Building Code of Australia (as in force on the date the application for the relevant construction certificate or complying development certificate was made). [DUR0010]
42. Provision shall be made for the collection of builder's solid waste in accordance with the following requirements:
- (a) A temporary builder's waste chute is to be erected to vertically convey builder's debris to a bulk container.
 - (b) The chute shall be located in a position approved by the Principal Certifying Authority.
 - (c) A canopy shall be provided to the chute outlet and container to reduce the spillage of materials and nuisance caused by dust. [DUR0070]
43. The builder must provide an adequate trade waste service to ensure that all waste material is contained, and removed from the site for the period of construction. [DUR0080]
44. A garbage storage area shall be provided in accordance with Council's "Code for Storage and Disposal of Garbage and Other Solid Waste". [DUR0090]
45. All demolition works are to observe the guidelines set down under the Environment Protection Authority publication "A Renovators Guide to the Dangers of Lead" and the WorkCover guidelines on working with and handling of asbestos. [DUR0100]
46. Building materials used in the construction of the building are not to be deposited or stored on Council's footpath or road reserve, unless prior approval is obtained from Council. [DUR0130]
47. All demolition work is to be carried out in accordance with the provisions of Australian Standard AS 2601 "The Demolition of Structures" and to the relevant requirements of the WorkCover Authority. [DUR0160]
48. The principal certifying authority is to be given a minimum of 48 hours notice prior to any critical stage inspection or any other inspection nominated by the principal certifying authority via the

notice under Section 81A of the Environmental Planning and Assessment Act 1979.

[DUR0170]

- 49. It is the responsibility of the applicant to restrict public access to the building site, building works or materials or equipment on the site when building work is not in progress or the site is otherwise unoccupied.**

[DUR0200]

- 50. (a) All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards.**
(b) All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.

[DUR0210]

- 51. If the work involved in the erection or demolition of a building:**

- (a) is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient; or**
(b) building involves the enclosure of a public place,

a hoarding or fence must be erected between the work site and the public place.

If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place.

The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.

Any such hoarding, fence or awning is to be removed when the work has been completed.

[DUR0220]

- 52. Provision to be made for the designation of a durable and pervious car wash-down area/s. The area/s must be identified for that specific purpose and be supplied with an adequate water supply for use within the area/s. Any surface run-off from the area must not discharge directly to the stormwater system.**

[DUR0240]

- 53. No filling is to be placed hydraulically within twenty metres (20m) of any boundary that abuts private land that is separately owned. Fill adjacent to these boundaries is to be placed mechanically.**

No filling of any description is to be deposited, or remain deposited, within adjacent properties.

[DUR0560]

54. Suitable covering and protection is to be provided to ensure that no material is removed from the site by wind, causing nuisance to neighbouring properties.
[DUR0850]
55. All battered areas are to be topsoiled and grassed, or other suitable protection provided as soon as filling is placed adjacent to neighbouring properties.
[DUR0860]
56. All work associated with this approval is to be carried out so as not to cause a nuisance to residents in the locality from noise, water or air pollution.
[DUR0870]
57. All necessary precautions shall be taken to minimise impact from dust during filling operations from the site and also from construction vehicles.
[DUR0880]
58. Construction site work including the entering and leaving of vehicles is to be restricted to between 7.00 am and 7.00 pm Monday to Saturday and no work on Sundays or public holidays.
[DUR0900]
59. All reasonable steps shall be taken to muffle and acoustically baffle all plant and equipment. In the event of complaints from the neighbours, which Council deem to be reasonable, the noise from the construction site is not to exceed the following:
- A. Short Term Period - 4 weeks.
L10 noise level measured over a period of not less than 15 minutes when the construction site is in operation, must not exceed the background level by more than 20dB(A) at the boundary of the nearest likely affected residence.
 - B. Long term period - the duration.
L10 noise level measured over a period of not less than 15 minutes when the construction site is in operation, must not exceed the background level by more than 15dB(A) at the boundary of the nearest affected residence.
[DUR0910]
60. The use of vibratory compaction equipment (other than hand held devices) within 100m of any dwelling house is strictly prohibited.
[DUR0920]
61. Prior to and during construction provide a "shake down" area along the haul route located immediately before the intersection with the road reserve. The "shake down" area is to be 10 metres long, minimum 3.0 metres wide, constructed of minimum 50mm diameter crushed rock; or other such device approved by the Director, Engineering & Operations.
[DUR0930]

62. The burning of builders waste on site by open fire is prohibited.
[DUR0940]
63. Any proposed cooling tower installation must also include details on the proposed means of back flow prevention to the water supply prior to installation.
[DUR0970]
64. Council is to be given 24 hours notice for any of the following inspections prior to the next stage of construction:
- (a) internal drainage, prior to slab preparation;
 - (b) water plumbing rough in, and/or stackwork prior to the erection of brick work or any wall sheeting;
 - (c) external drainage prior to backfilling.
 - (d) completion of work and prior to occupation of the building.
[DUR1020]
65. A. A plumbing permit is to be obtained from Council prior to commencement of any plumbing and drainage work.
B. The whole of the plumbing and drainage work is to be completed in accordance with the requirements of the NSW Code of Practice for Plumbing and Drainage.
[DUR1030]
66. An isolation cock is to be provided to the water services for each unit in a readily accessible and identifiable position.
[DUR1040]
67. Where two (2) or more premises are connected by means of a single house service pipe, the owner of each premises must *(unless all the premises are occupied by a single household or firm as a residence or place of business)* ensure that a separate water meter, of a class and size approved by Council, is installed on each of those premises.
[DUR1070]
68. Dual flush water closet suites are to be installed in accordance with Local Government Water and Sewerage and Drainage Regulations 1993.
[DUR1090]
69. Back flow prevention devices shall be installed wherever cross connection occurs or is likely to occur. The type of device shall be determined in accordance with AS 3500.1 and shall be maintained in working order and inspected for operational function at intervals not exceeding 12 months in accordance with Section 4.7.2 of this Standard.
[DUR1110]
70. Overflow relief gully is to be located clear of the building and at a level not less than 150mm below the lowest fixture within the building and 75mm above finished ground level.
[DUR1130]

71. All new hot water installations shall deliver hot water at the outlet of sanitary fixtures used primarily for personal hygiene purposes at a temperature not exceeding:-
- * 43.5⁰C for childhood centres, primary and secondary schools and nursing homes or similar facilities for aged, sick or disabled persons; and
 - * 50⁰C in all other classes of buildings.

A certificate certifying compliance with the above is to be submitted by the licensed plumber on completion of works.

[DUR1160]

72. Any damage caused to public infrastructure (roads, footpaths, water and sewer mains, power and telephone services etc) during construction of the development shall be repaired to the satisfaction of the Director, Engineering & Operations prior to the issue of a Subdivision Certificate and/or prior to any use or occupation of the buildings.

[DUR1210]

73. All proposed works are to be carried out in accordance with the conditions of development consent, approved construction certificate, drawings and specifications.

[DURNS01]

74. A concrete ribbon footpath 100 millimetres thick for the full width of the nature strip between the back of kerb and the property boundary along the frontage of the site to Boundary Lane and continued on the same alignment to the existing footpath on Tweed Terrace is to be constructed on a compacted base. The compacted base is to achieve 95% of maximum dry density determined in accordance with AS1289 5.4.1 for a minimum 100mm depth. A full depth construction joint is to be provided at 6.0 metre intervals and 20 millimetre deep groove joints provided every 1.5 metres. The footpath is to have a 2.5% crossfall. This may result in work to be undertaken on the footpath at adjoining properties which must not exceed 1:14 and must be reinstated with turf. No steps or ramps will be permitted within the nature strip and the associated entrances to the proposed development must be designed accordingly. The concrete footpath gradient shall be parallel to the top of kerb for the full frontage of the site and be maintained unvaried across the proposed driveway and pedestrian entrances. An inspection of the formwork is to be arranged with Council's Engineering & Operations Division prior to concrete being placed.

[DURNS01]

75. The provision of adequate vehicular access in accordance with Council's "Vehicular Access to Property Construction Specification" pamphlet, including the provision of an invert crossing at the kerb and gutter where required and paving of the driveway across the footpath to the front alignment to the satisfaction of the Director, Engineering & Operations. Twenty four (24) hours notice is to be given to Council's Engineering & Operations Division before

placement of concrete to enable formwork to be inspected. Failure to do so may result in rejection of the vehicular access and its reconstruction. Paving bricks are not acceptable unless laid on a 100mm thick concrete base.

[DURNS01]

76. Adequate site distances satisfying the provisions of Council's "Driveway Access To Property" pamphlet must be provided at the site's vehicular access.
77. All imported fill material shall be from an approved source. Prior to commencement of filling operations, details of the source of fill shall be submitted to the satisfaction of the DECS. Documentary evidence must be provided that the fill material is free of any contaminants.
78. Appropriate measures are to be put in place during the construction period to prevent the transport of sediment from the site. Should any material be transported onto the road or any spills occur it is to be cleaned up within one hour of occurrence.
79. All works (including support structures for excavation such as sheet piling) are to occur within the confines of the subject property boundaries.
80. The building is to be constructed of non reflective materials with a complementary colour scheme.
81. No soil, sand, gravel, clay or other material shall be disposed of off the site.
82. Where the construction work is on or adjacent to public roads, parks or drainage reserves the development shall provide and maintain all warning signs, lights, barriers and fences in accordance with AS 1742.3-2202 (Manual of Uniform Traffic Control Devices). The contractor or property owner shall be adequately insured against Public Risk Liability and shall be responsible for any claims arising from these works.
83. The provision of 31 off street car parking spaces, five to be nominated as visitor car parking and one to be a nominated car wash bay. The layout and construction standards to be in accordance with Development Control Plan No. 2 - Parking Controls.
84. All retaining walls in excess of 1.2 metres in height must be certified by a Qualified Structural Engineer verifying the structural integrity of the retaining wall after construction.

[DURNS01]

[DURNS02]

[DURNS03]

[DURNS04]

[DURNS05]

[DUR0030]

[DUR0040]

[DUR0050]

[DUR0060]

85. Regular inspections shall be carried out by the Supervising Engineer on site to ensure that adequate erosion control measures are in place and in good condition both during and after construction.

Additional inspections are also required by the Supervising Engineer after each storm event to assess the adequacy of the erosion control measures, make good any erosion control devices and clean up any sediment that has left the site or is deposited on public land or in waterways.

This inspection program is to be maintained until the maintenance bond is released or until Council is satisfied that the site is fully rehabilitated.

[DUR0730]

86. Landscaping of the site shall be carried out in accordance with the submitted landscaping plans. The landscaping to be completed prior to occupation of the building, to the satisfaction of the Director, Planning and Development.

[DUR1230]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

87. In the event that Council is not utilised as the inspection/certifying authority, prior to occupation of the building a Compliance Certificate in the prescribed form is to be submitted to Council from the nominated principal certifying authority, together with the prescribed fee, to certify that all work has been completed in accordance with the approved plans and specifications and conditions of Consent.

[POC0020]

88. A person must not commence occupation or use of the whole or any part of a new building (within the meaning of Section 109H(4)) unless an occupation certificate has been issued in relation to the building or part (maximum 25 penalty units).

[POC0030]

89. The building is not to be occupied or a final occupation certificate issued until a fire safety certificate has been issued for the building to the effect that each required essential fire safety measure has been designed and installed in accordance with the relevant standards.

[POC0050]

90. Prior to the occupation or use of any building and prior to the issue of any occupation certificate, including an interim occupation certificate, a final inspection report is to be obtained from Council in relation to the plumbing and drainage works.

[POC0170]

91. Prior to the issue of an occupation certificate, a "satisfactory inspection report" issued by Council must be produced for s68h2 permanent stormwater quality control devices. This inspection report

must be obtained from Council prior to backfilling of any of the s68h2 approved devices.

[POCNS01]

USE

92. Owners of buildings served by plant involving the operation of "cooling towers", "evaporative condensers" or "tepid water systems" must submit to Council, half yearly, a report detailing the maintenance, cleansing and chemical treatment of such plant every three (3) months in accordance with Part 6 of the NSW Public Health Act.
- [USE0180]
93. All mechanical ventilation, pool pumps, other plant and associated equipment shall be acoustically treated where required to the satisfaction of Council's DECS so as to avoid the creation of intrusive or unreasonable noise to any occupant of a neighbouring or adjacent residential premises.
- [USENS01]
94. All externally mounted artificial lighting is to be shielded to the satisfaction of Council's DECS where necessary or required so as to prevent the spill of light creating a nuisance to adjoining residential premises.
- [USENS02]
95. The premises shall be suitably identified by Unit No. (where appropriate) and Street Number displayed in a prominent position on the facade of the building facing the primary street frontage, and is to be of sufficient size to be clearly identifiable from the street.
- [USE0040]
96. All trade materials, product and plant to be kept within confines of the building at all times.
- [USE0120]
97. A Strata Certificate shall not be issued for a Strata Plan or a Strata Plan of Subdivision unless the provision of the Strata Schemes (Freehold Development) Act 1973 and/or the Strata Schemes (Leasehold Development) Act 1986 have been complied with.
- [USE0140]
98. The swimming pool is not to be used for commercial purposes without prior Development Consent.

REPORT:

As per summary.

Item P9 - Attachment 3 - Notice of Determination

Please Quote
Council Ref: DA05/0195

15584

Your Ref No:

For Enquiries
Please Contact: Denise O'Brien

Telephone Direct (02) 6670 2459

[DAConsent]

14 September 2005

Sean Gartner Architects
PO Box 1122
MONA VALE NSW 1660

Dear Sir/Madam,

Development Application DA05/0195 - residential flat building 6 storeys comprising of 12 units and two levels of underground carparking at Lot C DP 406494, No. 2 and Lot 1 DP 350710, No. 4 Boundary Lane Tweed Heads

I refer to your Development Application regarding the above, and advise that Council at its meeting of 3rd August 2005 resolved to approve the application, herewith is a copy of Development Consent No. DA05/0195.

Your attention, in particular, is drawn to Condition No. 9 & 10 of the attached Consent, which requires the payment of applicable contributions prior to the issue of a construction certificate.

Please also find enclosed the signed copy of Deed of Agreement for your records.

Yours faithfully

Garry Smith
Manager Development Assessment

Enc

TWEED SHIRE COUNCIL

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979

NOTICE OF DETERMINATION OF A DEVELOPMENT APPLICATION

To: Sean Gartner Architects
PO Box 1122
MONA VALE NSW 1660

Pursuant to Section 81(1)(a) of the Act, notice is hereby given of the determination by the Tweed Shire Council of Development Application No. **DA05/0195** relating to land described as:-

Lot C DP 406494
Lot 1 DP 350710
No. 2 and No. 4 Boundary Lane
Tweed Heads

to be developed in accordance with plans and details submitted for the purpose of –

RESIDENTIAL FLAT BUILDING 6 STOREYS COMPRISING OF 12 UNITS AND TWO LEVELS OF UNDERGROUND CARPARKING

The Development Application has been determined by the granting of consent subject to the conditions described below:-

GENERAL

1. The development shall be completed in accordance with the Statement of Environmental Effects and Plan Nos A01 - A07 prepared by Sean Gartner Architects and dated February 2005, except where varied by these conditions.

[GEN0010]
2. No part of the proposed development shall exceed RL 49.8m AHD.

[GEN0010]
3. The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia.

[GEN0120]
4. The erection of a building in accordance with a development consent must not be commenced until:
 - (a) a construction certificate for the building work has been issued by the consent authority, the council (if the council is not the consent authority) or an accredited certifier, and
 - (b) the person having the benefit of the development consent has:
 - (i) appointed a principal certifying authority for the building work, and

- (ii) notified the principal certifying authority that the person will carry out the building work as an owner-builder, if that is the case, and
- (b1) the principal certifying authority has, no later than 2 days before the building work commences:
 - (i) notified the consent authority and the council (if the council is not the consent authority) of his or her appointment, and
 - (ii) notified the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
- (b2) the person having the benefit of the development consent, if not carrying out the work as an owner-building, has:
 - (i) appointed a principal contractor for the building work who must be the holder of a contractor licence if any residential work is involved, and
 - (ii) notified the principal certifying authority of any such appointment, and
 - (iii) unless that person is the principal contractor, notified the principal contractor of any critical stage inspection and other inspections that are to be carried out in respect of the building work.

[GEN0150]

5. Any use of a crane or other equipment that may exceed a top RL of 49.5 metres AHD would intrude into the prescribed airspace of Gold Coast Airport, and therefore represent a "controlled activity" under the Airports (Protection of Airspace) Regulations. The proponent must obtain the approval of the Secretary, Department of Transport and Regional Services. An application for the Secretary's approval must be given to the airport lessee company (ie Gold Coast Airport Limited) at least 28 days before the intended commencement of the controlled activity.

[GENNS01]

6. Approval is given subject to the location of, protection of, and/or any necessary modifications to any existing public utilities situated within the subject property.

[GEN0030]

7. The enclosed portion of the building is to stand a minimum of 6 metres from the front boundary of the property.

[GEN0080]

8. The boundary fence to Boundary Lane is to be no greater than 1.6 metres in height and is to step down the site accordingly.

[GENNS02]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

9. Section 94 Contributions

- (i) Payment of the following contributions pursuant to Section 94 of the Act and the relevant Section 94 Plan.

Pursuant to Clause 146 of the Environmental Planning and Assessment Regulations, 2000, a Construction Certificate shall NOT be issued by a Certifying Authority unless all Section 94 Contributions have been paid and the Certifying Authority has sighted Council's "Contribution Sheet" signed by an authorised officer of Council.

These charges will remain fixed for a period of 12 months from the date of this consent and thereafter in accordance with the rates applicable in the current version/edition of the relevant Section 94 Plan current at the time of the payment.

A copy of the Section 94 contribution plans may be inspected at the Civic and Cultural Centres, Tumbulgum Road, Murwillumbah and Brett Street, Tweed Heads.

a.	Tweed Road Contribution Plan: S94 Plan No. 4 (Version 4.0)	\$6,697
Sector1_4		
b.	Open Space (Structured): S94 Plan No. 5	\$4,560
c.	Open Space (Casual): S94 Plan No. 5	\$974
d.	Shirewide Library Facilities: S94 Plan No. 11	\$4,024
e.	Eviron Cemetery/Crematorium Facilities: S94 Plan No. 13	\$818
f.	Emergency Facilities (Surf Lifesaving) (REMSHIRE) S94 Plan No. 16	\$1,262
g.	Extensions to Council Administration Offices & Technical Support Facilities \$2,449.25 S94 Plan No. 18	
h.	Cycleways S94 Plan No. 22	\$940
i.	Regional Open Space (Structured) S94 Plan No. 26	\$6,875
j.	Regional Open Space (Casual) S94 Plan No. 26	\$1,286

[PCC0050/PSC0005]

10. A **certificate of compliance** (CC) under Sections 305, 306 and 307 of the Water Management Act 2000 is to be obtained from Council to verify that the necessary requirements for the supply of water and sewerage to the development have been made with the Tweed Shire Council.

Pursuant to Clause 146 of the Environmental Planning and Assessment Regulations, 2000, a Construction Certificate shall **NOT** be issued by a Certifying Authority unless all Section 64 Contributions have been paid and the Certifying Authority has sighted Council's "Contribution Sheet" and a "Certificate of Compliance" signed by an

authorised officer of Council.

Annexed hereto is an information sheet indicating the procedure to follow to obtain a Certificate of Compliance:

Water DSP4:	5.5 ET @ \$4230	\$23,265
Sewer Banora:	9.25 ET @ \$2634	\$24,365

These charges to remain fixed for a period of twelve (12) months from the date of this consent and thereafter in accordance with the rates applicable in Council's adopted Fees and Charges current at the time of payment.

Note: The Environmental Planning and Assessment Act, 1979 (as amended) makes no provision for works under the Water Management Act 2000 to be certified by an Accredited Certifier.

[PCC0070/PSC0004]

11. Waste material (soil, concrete, timber, masonry, steel and the like) generated by the development shall be disposed of in accordance with a Waste Management Plan which shall be submitted to and approved by the Director of Environment and Community Services **PRIOR** to the issue of a construction certificate.

The Plan shall specify how the waste is to be treated and/or where the waste is to be disposed of.

[PCC0130]

12. Permanent Stormwater Quality Treatment

- (a) Permanent stormwater quality treatment shall comply with "*Tweed Urban Stormwater Quality Management Plan*" (adopted by Council 19 April 2000) section 5.5.3 "Stormwater Objectives During the Post Construction or Occupational Phase of Development". New development is required to comply with table 5.4 of the plan and demonstrate compliance by modelling in accordance with section 5.5.4. Section 5.5.5 of the plan further advises that treatment that is in accordance with the "deemed to comply" provisions of *Appendix E - Tweed Shire Council, Aus-Spec D7 - Stormwater Quality* is deemed to comply with the objectives in 5.5.3.
- (b) Water sensitive design practices shall be adopted. Where it is practical, water quality features are to be designed into the land development site rather than rely on special end of pipe devices to strip pollutants and nutrients from stormwater prior to discharge. Typical water quality features that can be designed into the site development include use of porous pavements, directing runoff over filter strips or grass swales in landscaped areas, utilising landscaping as an integral part of stormwater quality management, maximising use of infiltration and stormwater reuse (eg. Rainwater tanks). These features can be complemented by site management practices which minimise creation of stormwater pollutants and nutrients and provide for appropriate operation, cleaning and maintenance of water quality control devices.
- (c) The Construction Certificate Application must include a detailed stormwater

management plan (SWMP) for the occupational or use stage of the development, prepared in accordance with Section D7.07 of *Tweed Shire Council Aus-Spec D7 - Stormwater Quality*.

(d) Specific requirements:

- (i) Runoff from driveway and basement car park areas must be treated to remove oil and sediment pollutants prior to discharge to the public realm. Permanent treatment devices must be sized in accordance with Section D7.12 of Council's Development Design Specification D7 - Stormwater Quality. Full engineering details of all treatment devices, including maintenance schedules, must be submitted with a s68 Stormwater Application for approval prior to the issue of a Construction Certificate.
- (ii) Dedicated car wash bays must be bunded to prevent contamination of basement stormwater. All collected carwash runoff must be treated to remove oil and sediment pollutants prior to discharge to sewer, requiring a Tweed Shire Council Trade Waste Application.

[PCC0230]

13. Erosion and Sediment Control During the Construction Phase of Development

- (a) Construction phase stormwater quality treatment (erosion and sediment control) shall be designed and constructed in accordance with detailed engineering plans to be submitted and approved with the Construction Certificate. Erosion and sediment control shall be in accordance with *the "Tweed Urban Stormwater Quality Management Plan"* (adopted by Council 19 April 2000) section 5.5.2 "Stormwater Objectives During the Construction Phase of New Development". This section requires all new development to comply with Appendix E of the Plan *"Tweed Shire Council Aus-Spec D7 - Stormwater Quality"* and its Annexure A - "Code of Practice for Soil and Water Management on Construction Works". Erosion and sediment controls shall remain in place until final approval is given and the maintenance bond (if required) has been released.
- (b) The Construction Certificate Application must include a detailed erosion and sediment control plan (ESCP) for the construction phase of development, prepared in accordance with Section D7.07 of *Tweed Shire Council Aus-Spec D7 - Stormwater Quality*.

[PCC0320]

14. The legal point of discharge for the subject development is via discharge into the public drainage system in Boundary Lane.

[PCCNS01]

15. Construction Certificate drawings shall make provisions for the regrading of the subject site in accordance with Council's Development Control Plan 47 "Cut and Fill on residential Land " or to the satisfaction of the Director Engineering and Operations Division.

[PCCNS01]

16. All retaining walls in excess of 1.2m are to be designed by a suitably qualified geotechnical / structural engineer in accordance with AS4678 - 2002 - Earth Retaining Structures. A report that details compliance with the design provisions of this standard is to accompany the Construction Certificate drawings.

[PCCNS01]

17. Prior to the issuing of a Construction Certificate, a full geotechnical assessment of the site is to be carried out and a report submitted to Council for approval. The report must include recommendations relating to site stability, proposed on-site excavation works including temporary and permanent retention methods proposed for the protection of adjacent structures, foundation design parameters, construction theories, as well as any other geotechnical matters of relevance relating to the proposed development. The report should detail any precautions considered necessary to protect such properties from damage in accordance with Tweed Shire Council's Building Excavation Dewatering Policy.

Ground anchors to retain sacrificial sheet piling (as required) will not be allowed within Council property without prior approval for installation by the Director Engineering and Operations Division and removal on completion or substantial financial compensation. Council will only allow ground anchors with neighbouring private property if consent by the owners of the property to be burdened is obtained prior to installation.

[PCCNS01]

18. Prior to Issue of Construction Certificate the applicant shall submit to Council documentation demonstrating General Public Liability Insurance to the value of \$5,000,000 which includes loss of support to neighbouring properties which is attributed to excavation vibration associated with the project in accordance with Tweed Shire Council's Building Excavation Dewatering Policy.

[PCCNS04]

19. An on site detention (OSD) system shall be installed in general accordance with stormwater management details provided by Northern Beaches Consulting Engineers (dated 21 February 2005, ref 041219), to limit peak stormwater discharge from the site to the public realm to 200L/s/ha in events of intensity up to the ARI 100 year design storm. These works and the connection to Council's drainage system shall be constructed in accordance with detailed design calculations, plans and specifications to be submitted with the construction certificate application and approved by the Director Engineering & Operations. Invert levels of all devices shall be reviewed to ensure efficient conveyance of stormwater to the Boundary Lane kerb and gutter.

[PCCNS01]

20. Notwithstanding the issue of this development consent, separate consent from Council under Section 138 of the Roads Act 1993, must be obtained prior to any works taking place within the public road including the construction of new driveway access, footpath or kerb and gutter construction. Applications for consent under Section 138 must be submitted on Council's standard application form and be accompanied by the required attachments and prescribed fee.

[PCCNS01]

21. Appropriate arrangements to the satisfaction of Council's DECS shall be provided for the storage and removal of garbage and other waste products.

[PCCNS02]

22. A detailed plan of landscaping is to be submitted and approved by Council's Director, Planning and Environment prior to the issue of a Construction Certificate. All landscaping work is to be completed in accordance with the approved plans prior to any use or occupation of the building.

[PCC0010]

23. A construction certificate application for works that involve any of the following:-

- connection of a private stormwater drain to a public stormwater drain
- installation of stormwater quality control devices
- erosion and sediment control works

will not be approved until prior separate approval to do so has been granted by Council under section 68 of the Local Government Act 1993.

Applications for these works must be submitted on Council's standard s68 stormwater drainage application form accompanied by the required attachments and the prescribed fee.

[PCC0240]

24. A traffic control plan that complies with the provisions of the RTA document "Traffic Control at Work Sites" Version 2 shall be prepared by a person who is qualified, authorised and has passed an RTA approved training course, and submitted to Council, prior to issue of the Construction Certificate. All works are to comply with the Occupational Health and Safety Act and the RTA document and the approval particularly in respect to works on public roads. Safe public access shall be provided at all times.

[PCC0040]

25. Prior to the installation of any air conditioning systems, details of the units and locations proposed shall be supplied to Council's Environment and Health Unit for review and approval.

[PCCNS03]

26. Prior to commencement of works all required sedimentation and siltation control measures are to be installed and operational to the satisfaction of the Principal Certifying Authority.

Erosion and sediment control shall be in accordance with *the "Tweed Urban Stormwater Quality Management Plan"* (adopted by Council 19 April 2000) section 5.5.2 "Stormwater Objectives During the Construction Phase of New Development". This section requires all new development to comply with Appendix E of the Plan *"Tweed Shire Council Aus-Spec D7 - Stormwater Quality"* and its Annexure A - "Code of Practice for Soil and Water Management on Construction Works". Erosion and sediment controls shall remain in place until final approval is given and the

maintenance bond has been released.

[PCW0190]

PRIOR TO COMMENCEMENT OF WORK

27. Please note that while the proposal, subject to the conditions of approval, may comply with the provisions of the Building Code of Australia for persons with disabilities your attention is drawn to the Disability Discrimination Act which may contain requirements in excess of those under the Building Code of Australia. It is therefore recommended that these provisions be investigated prior to start of works to determine the necessity for them to be incorporated within the design.

[PCW0010]

28. A temporary builder's toilet is to be provided prior to commencement of work at the rate of one (1) closet for every twenty (20) persons or part of twenty (20) persons employed at the site. Each toilet provided must be:-

- (a) a standard flushing toilet connected to a public sewer, or
- (b) if that is not practicable, an accredited sewage management facility approved by the council, or
- (c) if that is not practicable, any other sewage management facility approved by the council.

[PCW0060]

29. **Where prescribed by the provisions of the Environmental Planning and Assessment Amendment (Quality of Construction) Act 2003**, a sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:

- (a) showing the name, address and telephone number of the principal certifying authority for the work, and
- (b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
- (c) stating that unauthorised entry to the site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

[PCW0070]

30. It is a condition of this approval that, if an excavation extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made must comply with the following:

- i. The person must, at the person's own expense:
 - a. preserve and protect the building from damage; and
 - b. if necessary, underpin and support the building in an approved manner.

- ii. The person must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars to the owner of the proposed work.

[PCW0080]

31. Prior to work commencing, a "Notice of Commencement of Building or Subdivision Work and Appointment of Principal Certifying Authority" shall be submitted to Council at least **2 days** prior to work commencing.

[PCW0090]

32. An application to connect to Council's sewer or carry out plumbing and drainage works, together with any prescribed fees including inspection fees, is to be submitted to and approved by Council prior to the commencement of any building works on the site.

[PCW0210]

33. Prior to commencement of building works provide hydraulic drawings on the proposed sewer drainage systems including pipe sizes, details of materials and discharge temperatures.

[PCW0230]

34. Prior to commencement of work on the site all erosion and sedimentation control measures are to be installed and operational to the satisfaction of the Principal Certifying Authority. In addition to these measures an appropriate sign is to be clearly displayed on the most prominent position of the sediment fence or erosion control device which promotes awareness of the importance of the erosion and sediment controls provided.

Please note that this sign is to remain in position for the duration of the project.

[PCW0280]

35. Prior to commencement of any demolition works, drainage is to be disconnected from Council's Sewerage reticulation at the building's connection point. **This work is to be carried out by Council staff at developers cost as per Council's current Fees and Charges.**

[PCW0300]

36. Prior to the commencement of any demolition works on the site a development application for demolition is to be submitted to and approved of by Council.

[PCWNS01]

37. The building is to constructed of non reflective materials with a complimentary colour scheme.

[DURNS05]

38. No soil, sand, gravel, clay or other material shall be disposed of off the site.

[DUR0030]

39. Where the construction work is on or adjacent to public roads, parks or drainage reserves the development shall provide and maintain all warning signs, lights, barriers and fences in accordance with AS 1742.3-2202 (Manual of Uniform Traffic Control Devices). The contractor or property owner shall be adequately insured against Public Risk Liability and shall be responsible for any claims arising from these works.

[DUR0040]

40. The provision of 31 off street car parking spaces, five to be nominated as visitor car parking and one to be a nominated car wash bay. The layout and construction standards to be in accordance with Development Control Plan No. 2 - Parking Controls.

[DUR0050]

41. All retaining walls in excess of 1.2 metres in height must be certified by a Qualified Structural Engineer verifying the structural integrity of the retaining wall after construction.

[DUR0060]

42. Regular inspections shall be carried out by the Supervising Engineer on site to ensure that adequate erosion control measures are in place and in good condition both during and after construction.

Additional inspections are also required by the Supervising Engineer after each storm event to assess the adequacy of the erosion control measures, make good any erosion control devices and clean up any sediment that has left the site or is deposited on public land or in waterways.

This inspection program is to be maintained until the maintenance bond is released or until Council is satisfied that the site is fully rehabilitated.

[DUR0730]

43. Landscaping of the site shall be carried out in accordance with the submitted landscaping plans. The landscaping to be completed prior to occupation of the building, to the satisfaction of the Director, Development Services.

[DUR1230]

DURING CONSTRUCTION

44. All building work (other than work relating to the erection of a temporary building) must be carried out in accordance with the requirements of the Building Code of Australia (as in force on the date the application for the relevant construction certificate or complying development certificate was made).

[DUR0010]

45. Provision shall be made for the collection of builder's solid waste in accordance with the following requirements:
- a. A temporary builder's waste chute is to be erected to vertically convey builder's debris to a bulk container.

- b. The chute shall be located in a position approved by the Principal Certifying Authority.
- c. A canopy shall be provided to the chute outlet and container to reduce the spillage of materials and nuisance caused by dust.

[DUR0070]

46. The builder must provide an adequate trade waste service to ensure that all waste material is contained, and removed from the site for the period of construction.

[DUR0080]

47. A garbage storage area shall be provided in accordance with Council's **"Code for Storage and Disposal of Garbage and Other Solid Waste"**.

[DUR0090]

48. All demolition works are to observe the guidelines set down under the Environment Protection Authority publication "A Renovators Guide to the Dangers of Lead" and the WorkCover guidelines on working with and handling of asbestos.

[DUR0100]

49. Building materials used in the construction of the building are not to be deposited or stored on Council's footpath or road reserve, unless prior approval is obtained from Council.

[DUR0130]

50. All demolition work is to be carried out in accordance with the provisions of Australian Standard AS 2601 "The Demolition of Structures" and to the relevant requirements of the WorkCover Authority.

[DUR0160]

51. The principal certifying authority is to be given a minimum of 48 hours notice prior to any critical stage inspection or any other inspection nominated by the principal certifying authority via the notice under Section 81A of the Environmental Planning and Assessment Act 1979.

[DUR0170]

52. It is the responsibility of the applicant to restrict public access to the building site, building works or materials or equipment on the site when building work is not in progress or the site is otherwise unoccupied.

[DUR0200]

53. a. All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards.
- b. All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.

[DUR0210]

54. If the work involved in the erection or demolition of a building:
- a. is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient; or
 - b. building involves the enclosure of a public place,
- a hoarding or fence must be erected between the work site and the public place.

If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place.

The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.

Any such hoarding, fence or awning is to be removed when the work has been completed.

[DUR0220]

55. Provision to be made for the designation of a durable and pervious car wash-down area/s. The area/s must be identified for that specific purpose and be supplied with an adequate water supply for use within the area/s. Any surface run-off from the area must not discharge directly to the stormwater system.

[DUR0240]

56. No filling to be placed hydraulically within twenty metres (20m) of any boundary that abuts private land that is separately owned. Fill adjacent to these boundaries is to be placed mechanically.

No filling of any description is to be deposited, or remain deposited, within adjacent properties.

[DUR0560]

57. Suitable covering and protection is to be provided to ensure that no material is removed from the site by wind, causing nuisance to neighbouring properties.

[DUR0850]

58. All battered areas are to be topsoiled and grassed, or other suitable protection provided as soon as filling is placed adjacent to neighbouring properties.

[DUR0860]

59. All work associated with this approval is to be carried out so as not to cause a nuisance to residents in the locality from noise, water or air pollution.

[DUR0870]

60. All necessary precautions shall be taken to minimise impact from dust during filling operations from the site and also from construction vehicles.

[DUR0880]

61. Construction site work including the entering and leaving of vehicles is to be restricted to between 7.00 am and 7.00 pm Monday to Saturday and no work on Sundays or public holidays.

[DUR0900]

62. All reasonable steps shall be taken to muffle and acoustically baffle all plant and equipment. In the event of complaints from the neighbours, which Council deem to be reasonable, the noise from the construction site is not to exceed the following:

A. Short Term Period - 4 weeks.

L10 noise level measured over a period of not less than 15 minutes when the construction site is in operation, must not exceed the background level by more than 20dB(A) at the boundary of the nearest likely affected residence.

B. Long term period - the duration.

L10 noise level measured over a period of not less than 15 minutes when the construction site is in operation, must not exceed the background level by more than 15dB(A) at the boundary of the nearest affected residence.

[DUR0910]

63. The use of vibratory compaction equipment (other than hand held devices) within 100m of any dwelling house is strictly prohibited.

[DUR0920]

64. Prior to and during construction provide a "shake down" area along the haul route located immediately before the intersection with the road reserve. The "shake down" area is to be 10 metres long, minimum 3.0 metres wide, constructed of minimum 50mm diameter crushed rock; or other such device approved by the Director, Engineering & Operations.

[DUR0930]

65. The burning of builders waste on site by open fire is prohibited.

[DUR0940]

66. Any proposed cooling tower installation must also include details on the proposed means of back flow prevention to the water supply prior to installation.

[DUR0970]

67. Council is to be given 24 hours notice for any of the following inspections prior to the next stage of construction:

a. internal drainage, prior to slab preparation;

b. water plumbing rough in, and/or stackwork prior to the erection of brick work or any wall sheeting;

c. external drainage prior to backfilling.

d. completion of work and prior to occupation of the building.

[DUR1020]

68. A. A plumbing permit is to be obtained from Council prior to commencement of any plumbing and drainage work.

B. The whole of the plumbing and drainage work is to be completed in accordance with the requirements of the NSW Code of Practice for Plumbing and Drainage.

[DUR1030]

69. An isolation cock is to be provided to the water services for each unit in a readily accessible and identifiable position.

[DUR1040]

70. Where two (2) or more premises are connected by means of a single house service pipe, the owner of each premises must (*unless all the premises are occupied by a single household or firm as a residence or place of business*) ensure that a separate water meter, of a class and size approved by Council, is installed on each of those premises.

[DUR1070]

71. Dual flush water closet suites are to be installed in accordance with Local Government Water and Sewerage and Drainage Regulations 1993.

[DUR1090]

72. Back flow prevention devices shall be installed wherever cross connection occurs or is likely to occur. The type of device shall be determined in accordance with AS 3500.1 and shall be maintained in working order and inspected for operational function at intervals not exceeding 12 months in accordance with Section 4.7.2 of this Standard.

[DUR1110]

73. Overflow relief gully is to be located clear of the building and at a level not less than 150mm below the lowest fixture within the building and 75mm above finished ground level.

[DUR1130]

74. All new hot water installations shall deliver hot water at the outlet of sanitary fixtures used primarily for personal hygiene purposes at a temperature not exceeding:-

- * 43.5°C for childhood centres, primary and secondary schools and nursing homes or similar facilities for aged, sick or disabled persons; and
- * 50°C in all other classes of buildings.

A certificate certifying compliance with the above is to be submitted by the licensed plumber on completion of works.

[DUR1160]

75. Any damage caused to public infrastructure (roads, footpaths, water and sewer mains, power and telephone services etc) during construction of the development shall be repaired to the satisfaction of the Director, Engineering & Operations prior to the issue of a Subdivision Certificate and/or prior to any use or occupation of the buildings.

[DUR1210]

76. All proposed works are to be carried out in accordance with the conditions of development consent, approved construction certificate, drawings and specifications.

[DURNS01]

77. A concrete ribbon footpath 100 millimeters thick for the full width of the nature strip between the back of kerb and the property boundary along the frontage of the site to Boundary Lane is to be constructed on a compacted base. The compacted base is to achieve 95% of maximum dry density determined in accordance with AS1289 5.4.1 for a minimum 100mm depth. A full depth construction joint is to be provided at 6.0 metre intervals and 20 millimetre deep groove joints provided every 1.5 metres. The footpath is to have a 2.5% crossfall. This may result in work to be undertaken on the footpath at adjoining properties which must not exceed 1:14 and must be reinstated with turf. No steps or ramps will be permitted within the nature strip and the associated entrances to the proposed development must be designed accordingly. The concrete footpath gradient shall be parallel to the top of kerb for the full frontage of the site and be maintained unvaried across the proposed driveway and pedestrian entrances. An inspection of the formwork is to be arranged with Council's Engineering & Operations Division prior to concrete being placed.

[DURNS01]

78. The provision of adequate vehicular access in accordance with Council's "Vehicular Access to Property Construction Specification" pamphlet, including the provision of an invert crossing at the kerb and gutter where required and paving of the driveway across the footpath to the front alignment to the satisfaction of the Director, Engineering & Operations. Twenty four (24) hours notice is to be given to Council's Engineering & Operations Division before placement of concrete to enable formwork to be inspected. Failure to do so may result in rejection of the vehicular access and its reconstruction. Paving bricks are not acceptable unless laid on a 100mm thick concrete base.

[DURNS01]

79. Adequate site distances satisfying the provisions of Council's "Driveway Access To Property" pamphlet must be provided at the site's vehicular access.

[DURNS01]

80. All imported fill material shall be from an approved source. Prior to commencement of filling operations, details of the source of fill shall be submitted to the satisfaction of the DECS. Documentary evidence must be provided that the fill material is free of any contaminants.

[DURNS02]

81. Appropriate measures are to be put in place during the construction period to prevent the transport of sediment from the site. Should any material be transported onto the road or any spills occur it is to be cleaned up within one hour of occurrence.

[DURNS03]

82. All works (including support structures for excavation such as sheet piling) are to occur within the confines of the subject property boundaries.

[DURNS04]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

83. In the event that Council is not utilised as the inspection/certifying authority, prior to occupation of the building a Compliance Certificate in the prescribed form is to be submitted to Council from the nominated principal certifying authority, together with the prescribed fee, to certify that all work has been completed in accordance with the approved plans and specifications and conditions of Consent.

[POC0020]

84. A person must not commence occupation or use of the whole or any part of a new building (within the meaning of Section 109H(4)) unless an occupation certificate has been issued in relation to the building or part (maximum 25 penalty units).

[POC0030]

85. The building is not to be occupied or a final occupation certificate issued until a fire safety certificate has been issued for the building to the effect that each required essential fire safety measure has been designed and installed in accordance with the relevant standards.

[POC0050]

86. Prior to the occupation or use of any building and prior to the issue of any occupation certificate, including an interim occupation certificate, a final inspection report is to be obtained from Council in relation to the plumbing and drainage works.

[POC0170]

87. Prior to the issue of an occupation certificate, a "satisfactory inspection report" issued by Council must be produced for s68h2 permanent stormwater quality control devices. This inspection report must be obtained from Council prior to backfilling of any of the s68h2 approved devices.

[POCNS01]

88. The premises shall be suitably identified by Unit No. (where appropriate) and Street Number displayed in a prominent position on the facade of the building facing the primary street frontage, and is to be of sufficient size to be clearly identifiable from the street.

[USE0040]

89. All trade materials, product and plant to be kept within confines of the building at all times.

[USE0120]

90. A Strata Certificate shall not be issued for a Strata Plan or a Strata Plan of Subdivision unless the provision of the Strata Schemes (Freehold Development) Act 1973 and/or the Strata Schemes (Leasehold Development) Act 1986 have been complied with.

[USE0140]

91. The swimming pool is not to be used for commercial purposes without prior Development Consent.

[USE0260]

USE

92. Owners of buildings served by plant involving the operation of "cooling towers", "evaporative condensers" or "tepid water systems" must submit to Council, half yearly, a report detailing the maintenance, cleansing and chemical treatment of such plant every three (3) months in accordance with Part 6 of the NSW Public Health Act.

[USE0180]

93. All mechanical ventilation, pool pumps, other plant and associated equipment shall be acoustically treated where required to the satisfaction of Council's DECS so as to avoid the creation of intrusive or unreasonable noise to any occupant of a neighbouring or adjacent residential premises.

[USENS01]

94. All externally mounted artificial lighting is to be shielded to the satisfaction of Council's DECS where necessary or required so as to prevent the spill of light creating a nuisance to adjoining residential premises.

[USENS02]

The reasons for the imposition of conditions are to minimise any adverse impact the development may cause and to give effect to the objectives of the Environmental Planning and Assessment Act, 1979.

The application was determined on: **3 August 2005**
The consent to operate from: **14 September 2005**
The consent to lapse on 14 September 2010 unless commenced prior to that date.

RIGHT OF APPEAL

If you are dissatisfied with this decision Section 97 of the Environmental Planning and Assessment Act, 1979 gives you the right to appeal to the Land and Environment Court within 12 months after the date on which you receive this notice.

Signed on behalf of the Tweed Shire Council

Garry Smith, Manager Development Assessment
14 September 2005



TWEED SHIRE COUNCIL

**SECTION 94, SECTION 64 & OTHER DEVELOPER
CONTRIBUTIONS SHEET**

**THIS FORM MUST ACCOMPANY PAYMENT OF CONTRIBUTIONS TO
COUNCIL**

Development: residential flat building 6 storeys comprising of 12 units
and two levels of underground carparking

**Development Consent
No.** DA05/0195

Location: Lot C DP 406494
Lot 1 DP 350710 No. 2 & No. 4 Boundary Lane Tweed
Heads

Applicant: Sean Gartner Architects
PO Box 1122
MONA VALE NSW 1660

Owner: Point-D Pty Ltd

Date: 14 September 2005

Paid by:

Contribution Payable	S94 Contribution Plan Number/ Sector	Area CP5 Only	Units/lots or rate/ha	Rate (valid until) _/_/	Amount	Rate at Time of Payment after _/_/	Amount at Time of Payment \$	Receipt Number	Charge Control	Bank Account
WATER HEADWORKS	S64		5.5 ET @ \$4,230.00	14/9/2006	\$23,265.00				WaterDSP4	40
SEWERAGE HEADWORKS	S64		9.25 ET @ \$2,634.00	14/9/2006	\$24,365.00				SewerBnora	85
TRCP -TWEED HEADS	4/1		33.8 trips @ \$198.15	14/9/2006	\$6,697.00				Sector4_1	1
STRUCTURED OPEN SPACE – LOCAL	5	1	5.8456 ET @ \$780.00	14/9/2006	\$4,560.00				StructOS5	1
CASUAL OPEN SPACE – LOCAL	5	1	5.8324 ET @ \$167.00	14/9/2006	\$974.00				CasualOS5	1
LIBRARIES	11		5.8492 ET @ \$688.00	14/9/2006	\$4,024.00				ResDev11	1

The General Manager
Tweed Shire Council
PO Box 816
MURWILLUMBAH NSW 2484
Telephone (02) 66702400 Facsimile (02) 66702429
e-mail tsc@tweed.nsw.gov.au

Contribution Payable	S94 Contribution Plan Number/ Sector	Area CP5 Only	Units/lots or rate/ha	Rate (valid until) _/~/_	Amount	Rate at Time of Payment after _/~/_	Amount at Time of Payment \$	Receipt Number	Charge Control	Bank Account
CEMETERIES	13		6.2440 ET @ \$131.00	14/9/2006	\$818.00				ResDev13	1
SURF LIFESAVING REM	16		5.8696 ET @ \$215.00	14/9/2006	\$1,262.00				RemShire	1
COUNCIL ADMIN - TECH SUPPORT	18		7.1032 ET @ \$344.81	14/9/2006	\$2,449.25				Shirewide	1
CYCLEWAYS	22		5.8756 ET @ \$160.00	14/9/2006	\$940.00				Shirewid22	1
STRUCTURE OPEN SPACE - REGIONAL	26	1	5.8408 ET @ \$1,177.00	14/9/2006	\$6,875.00				StrucOS26	1
CASUAL OPEN SPACE - REGIONAL	26	1	5.8192 ET @ \$221.00	14/9/2006	\$1,286.00				CasOS26	1
TOTAL AMOUNT DUE					\$77,515.25					

Please forward receipt to

Name: _____

Address
:

Note: Refer to separate Fee Sheet for Application Fees

Original Contribution Amounts	Prepared by:	_____/_____/_____ Signature	print name	date
	Checked by:	_____/_____/_____ Signature	print name	date
Amended Contribution Amounts	Prepared by:	_____/_____/_____ Signature	print name	date
	Original/amended amounts Checked & Certified by: (to enable SC release/BA release/CC release) (Authorised Council ⁽¹⁾ Officer)	_____/_____/_____ Signature	print name	date

Note: (1) Authorised Council Officers are:-

- * **Town Planners**
- * **Subdivision Engineers**
- * **Building Surveyors**

TWEED SHIRE COUNCIL
PO BOX 816, MURWILLUMBAH NSW 2484

PROCEDURE FOR ISSUE OF CERTIFICATE OF COMPLIANCE

In accordance with Clause 64, Local Government Act, 1993 & Chapter 6, Part 2, Division 5 Water Management Act 2000

DETAILS

Applicant: Sean Gartner Architects
PO Box 1122
MONA VALE NSW 1660

Description of Development: residential flat building 6 storeys comprising of 12 units and two levels of underground carparking at Lot C DP 406494
Lot 1 DP 350710, No. 2 & No. 4 Boundary Lane Tweed Heads

Date of Council Approval: 14 September 2005

APPLICATION

To: The General Manager

Application is hereby made for a Certificate of Compliance under Part 2, Division 5, Clause 305 of the Water Management Act 2000, in respect of the consent/approval issued by Council.

Signature of Applicant

Date

NOTICE OF COUNCIL'S REQUIREMENTS UNDER PART 2, DIVISION 5, CLAUSE 306 OF THE WATER MANAGEMENT ACT 2000

Works required: a) *Water & Sewer headworks augmentation*

Contributions required: a) Water - \$23265
Sewer - \$24365

Note: *The fees and charges quoted above will remain fixed for a period of twelve (12) months from the date of Development Consent No. DA05/0195, dated 14 September 2005 and thereafter in accordance with the rates applicable in Council's adopted Fees and Charges current at the time of payment.*

Note: *The Environmental Planning and Assessment Act, 1979 (as amended) makes no provision for works under the Water Management Act 2000 to be certified by an Accredited Certifier.*

General Manager

Date

CERTIFICATE OF COMPLIANCE

Part 2, Division 5, Clause 307 of the Water Management Act 2000

This is to certify that water supply and sewerage works have been carried out, or security provided to Council's satisfaction for their completion and such other contributions have been paid or secured to satisfy notice of Council's requirements in respect of water supply and sewerage for the abovementioned consent dated 14 September 2005 on file DA05/0195.

General Manager

Date

The General Manager
Tweed Shire Council
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